

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

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5 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

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7 VIRGINIA GAS AND OIL BOARD

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14 AUGUST 18, 1998

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22 Reported by:  
23 SONYA MICHELLE BROWN, Court Reporter  
24 Rife & Associates  
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2 Grundy, Virginia 24614  
3 (540) 935-5257

4 BENNY WAMPLER: Good morning. My name is Benny  
5 Wampler. I'm Deputy Director for the Virginia Department of  
6 Mines, Minerals and Energy, and Chairman of the Gas and Oil  
7 Board; and I'll ask the Members to introduce themselves,  
8 please.

9 MASON BRENT: My name is Mason Brent. I'm from  
10 Richmond and I represent the Oil and Gas Industry.

11 DENNIS GARBIS: My name is Dennis Garbis. I'm a  
12 public member from Fairfax County.

13 CLYDE KING: My name is Clyde King. I'm a public  
14 member from Abingdon. Welcome to Abingdon.

15 BENNY WAMPLER: Cheryl, you want to just---?

16 CHERYL CASHMAN: I'm Cheryl Cashman. I work in the  
17 Department of Mines, Minerals and Energy's Richmond Office.

18 TOM FULMER: Tom Fulmer, Department of Mines,  
19 Minerals and Energy.

20 BENNY WAMPLER: Thank you. The first item on  
21 today's agenda, the Gas & Oil Board will consider a petition  
22 from Equitable Resources Energy Company for pooling of a  
23 conventional gas unit identified as V-3803. This is docket  
24 number VGOB-98-07/21-0675, continued from July and we'd ask  
the members that...the people here that wish to address the

1 Board to come forward at this time, please.

2           JIM KISER: Mr. Chairman and members of the Board,  
3 Jim Kiser on behalf of Equitable Resources Energy Company.  
4 At this time we'd like to request that we withdraw this  
5 petition from the force pooling docket and that this unit is  
6 now a voluntary unit with the royalty interest, one hundred  
7 (100) percent, under lease.

8           BENNY WAMPLER: Very good.

9           CLYDE KING: Yeah.

10           BENNY WAMPLER: Thank you. The next item on the  
11 agenda, the Board will consider a petition from Pocahontas  
12 gas Partnership under Section 45.1-361.22 for modification of  
13 a previously pooled coalbed methane unit identified as BUNE 1  
14 and previously pooled under docket number VGOB-91-11/19-0161.  
15 This is today's docket number VGOB-91-11/19-0161-01. We'd  
16 ask the parties that wish to address the Board in this matter  
17 to come forward at this time.

18           MARK SWARTZ: Mark Swartz on behalf of the  
19 applicant. We have a possible notice issue here. The last  
20 respondent, Pepsico was a lessor of ours. We needed to join  
21 them. They weren't noticed in the original notice. As of  
22 late yesterday, there was...we felt like we might get a  
23 waiver. We would like, if we could, maybe wait an hour this  
24

1 morning and see if we can get a waiver, call the case again.  
2 If not, we are going to be moving to continue it to next  
3 month because we weren't able to give the twenty (20) days  
4 notice.

5 BENNY WAMPLER: Any objection to holding this until  
6 the...Equitable finishes their dockets?

7 (No audible response.)

8 MARK SWARTZ: Oh, you are going to let them go.  
9 That's great, thank you.

10 BENNY WAMPLER: The next item on the agenda, the  
11 Gas & Oil Board will consider a petition from Equitable  
12 Resources Energy Company under Section 45.1-361.22 for  
13 pooling of a coalbed methane unit identified as VC-3900.  
14 This is docket number VGOB-98/08/18-0676, and we'd ask the  
15 parties that wish to address the Board in this matter to come  
16 forward at this time.

17 JIM KISER: Mr. Chairman and members of the Board,  
18 Jim Kiser on behalf of Equitable Resources Energy Company.  
19 Our witnesses in this matter will be Mr. Dennis Baker and Mr.  
20 Bob Dahlin. We'd ask at this time if they would be sworn.

21 (All witnesses are sworn.)

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23 DENNIS R. BAKER

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1 having been duly sworn, was examined and testified as  
2 follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KISER:

5 Q. Okay. Mr. Baker, we will start with you.  
6 If you would state your name for the Board, who you're  
7 employed by, and in what capacity?

8 A. My name is Dennis R. Baker. I'm employed by  
9 Equitable Resources Energy Company as Senior Landman.

10 Q. And do your responsibilities include the  
11 land involved in this unit and in the surrounding area?

12 A. Yes, they do.

13 Q. And are you familiar with Equitable's  
14 application for seeking of a pooling order for Equitable well  
15 number VC-3900, dated June 17th---?

16 A. Yes, I am.

17 Q. ---1998?

18 A. Yes, I am.

19 Q. It's dated July 17th, 1998?

20 A. Yes.

21 Q. Is Equitable seeking to force pool the  
22 drilling rights underlying the drilling unit as depicted at  
23 Exhibit A, that being the plat to the application?

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1                   A.       Yes.

2                   Q.       And does the location proposed for well  
3 number VC-3900 fall within the Board's order for the Nora  
4 coalbed gas field?

5                   A.       Yes, it does.

6                   Q.       Now, prior to filing the application, were  
7 efforts made to contact each of the respondents listed in  
8 Exhibit B in an attempt made to work out a voluntary lease  
9 agreement in regard to the development of the unit?

10                  A.       Yes.

11                  Q.       Does Equitable own drilling rights in the  
12 unit involved?

13                  A.       Yes, we do.

14                  Q.       What is the interest of Equitable in the gas  
15 estate within the unit?

16                  A.       The interest leased to Equitable in the gas  
17 estate is 96.30 percent.

18                  Q.       Okay. And what is the interest of Equitable  
19 in the coal estate within the unit?

20                  A.       The interest in the coal estate leased is  
21 96.30 percent.

22                  Q.       Now, subsequent to the filing of this  
23 application, have you continued to attempt to reach a  
24

1 voluntary agreement with the unleased respondents listed in  
2 Exhibit B?

3 A. Yes, we have.

4 Q. And as a result of those efforts, have you  
5 been successful in obtaining any additional leases?

6 A. No.

7 Q. Okay. Based on that then, what is the  
8 percent of the gas estate within the unit that remains  
9 unleased at this time?

10 A. The unleased portion of the unit is 3.70  
11 percent.

12 Q. And the unleased portion of the coal estate?

13 A. 3.70 percent unleased interest.

14 Q. Okay. And were efforts made to determine if  
15 the individual respondents in Exhibit B were living or  
16 deceased or their whereabouts, and if deceased, were efforts  
17 made to determine the names and addresses and whereabouts of  
18 any successors to these deceased individual respondents?

19 A. Yes.

20 BENNY WAMPLER: Can I interrupt for just one second?  
21 You were rounding, I guess.

22 DENNIS R. BAKER: Yes...yes, we were.

23 BENNY WAMPLER: Okay. All right. I just want to  
24

1 make sure these numbers in here are the accurate---.

2 JIM KISER: Right.

3 DENNIS R. BAKER: Right on the Exhibit B. Yes.

4 BENNY WAMPLER: Okay. Okay.

5 Q. Were reasonable and diligent efforts made  
6 and sources checked to identify and locate any unknown heirs,  
7 such as the Faith Hill Cassidy heirs in Tract 3, to include  
8 primary sources such as deed records, probate records,  
9 assessor's records, treasurer's records and secondary sources  
10 such as telephone directories, city directories, family and  
11 friends?

12 A. Yes.

13 Q. In your professional opinion, was due  
14 diligence exercised to locate each respondent named in  
15 Exhibit B?

16 A. Yes.

17 Q. And are the addresses set out in the Exhibit  
18 B to the application the last known addresses for the  
19 respondents?

20 A. Yes, they are.

21 Q. Are you requesting this Board to force pool  
22 all the unleased interest listed in revised Exhibit B to the  
23 application?

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1                   A.       Yes.

2                   Q.       Mr. Baker, are you familiar with the fair  
3 market value of drilling rights in the unit here and in the  
4 surrounding area?

5                   A.       Yes, I am.

6                   Q.       Could you advise the Board as to what those  
7 are?

8                   A.       A five dollar (\$5) per acre consideration,  
9 for a five year term, one-eighth of eight-eighth royalty.

10                  Q.       Did you gain this familiarity by acquiring  
11 oil and gas leases, coalbed methane leases and other  
12 agreements involving the transfer of drilling rights in the  
13 unit involved here and in the surrounding area?

14                  A.       Yes.

15                  Q.       In your professional opinion, do the terms  
16 you have testified to represent the fair market value of and  
17 the fair and reasonable compensation to be paid for drilling  
18 rights within this unit?

19                  A.       Yes.

20                  Q.       Now, as to those unleased respondents in  
21 Exhibit B who...should they be allowed the following options  
22 with respect to their ownership interest within the unit -  
23 one, participation; two, a cash bonus of five dollars (\$5)

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1 per net mineral acre plus a one-eighth of eight-eighths  
2 royalty; three, in lieu of cash bonus, a one-eighth of eight-  
3 eighths royalty share in the operation of the well on a  
4 carried bases as a carried operator on the following  
5 conditions: Such carried operator shall be entitled to the  
6 share of production from the tracts pooled accruing to his  
7 interest exclusive of any royalty or overriding royalty  
8 reserved in any leases, assignments thereof or agreements  
9 relating thereto of such tracts, but only after the proceeds  
10 applicable to his share equal, (A) Three hundred (300)  
11 percent of the share of such costs applicable to the interest  
12 of the carried operator of a leased tract or portion thereof;  
13 or (B) Two hundred (200) percent of the share of such costs  
14 applicable to the interest of the carried operator of an  
15 unleased tract or portion thereof?

16 A. Yes. Those options are correct.

17 Q. Do you recommend that any order provide that  
18 elections by respondents be in writing and sent to the  
19 applicant at Equitable Resources Energy Company, Eastern  
20 Region, P. O. Box 1983, Kingsport, Tennessee 37662,  
21 Attention: Dennis R. Baker, Regulatory?

22 A. Yes.

23 Q. And should this be the address for all  
24

1 communications with the applicant concerning the force  
2 pooling order?

3 A. Yes, it should.

4 Q. Do you recommend that the order provide that  
5 if no written elections is properly made by a respondent,  
6 then such respondent shall be deemed to have elected cash  
7 royalty option in lieu of participation?

8 A. Yes.

9 Q. And should any unleased respondent be given  
10 thirty (30) days from the date of the recording of the Board  
11 order to file their written elections?

12 A. Yes.

13 Q. If an unleased respondent elects to  
14 participate, should they be given forty-five (45) days to pay  
15 the applicant for respondent's proportionate share of well  
16 cost?

17 A. Yes.

18 Q. Does the applicant expect the party electing  
19 to participate to pay in advance their share of well costs?

20 A. Yes.

21 Q. Should the applicant be allowed a hundred  
22 and twenty (120) days following the recording date of the  
23 Board order, and thereafter, annually on that date, until  
24

1 production is achieved to pay or tender any cash bonus  
2 becoming due under the force order?

3 A. Yes.

4 Q. Do you recommend that the order provide that  
5 if the respondent elects to participate, but fails to pay  
6 their proportionate share of well costs satisfactory to the  
7 applicant for payment of said costs, the respondent's  
8 election to participant should be treated as having been  
9 withdrawn and void and such respondent should be treated as  
10 if no election....initial election had been filed under the  
11 force pooling order?

12 A. Yes.

13 Q. Do you recommend that the order provide that  
14 where a respondent elects to participate, but defaults in  
15 regard to the payment of well costs, any cash sum becoming  
16 payable to such respondent be paid within sixty (60) days  
17 after the last date on which such respondent could have paid  
18 or made satisfactory arrangements for the payment of those  
19 well costs?

20 A. Yes.

21 Q. Now, in this situation, even though it is a  
22 coalbed methane well, Mr. Baker, we don't have any  
23 conflicting complainants, do we?

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1           A.       No, we do not.

2           Q.       But we do have an...some unknown interests  
3 within Tract Three. So, does the Board need to establish an  
4 escrow account into which all costs or proceeds can be paid  
5 until these unknown heirs are found?

6           A.       Yes.

7           Q.       And who should be named the operator under  
8 the force pooling order?

9           A.       Equitable Resources Energy Company.

10          JIM KISER: That's all I have for this witness at  
11 this time, Mr. Chairman.

12          BENNY WAMPLER: Any questions from members of the  
13 Board?

14          MASON BRENT: Where are the unknowns?

15          JIM KISER: Tract Three.

16          DENNIS R. BAKER: At the bottom of page two (2),  
17 identified as the Faith Hill Cassidy heirs.

18          MASON BRENT: Okay. Okay. Yeah. Thank you.

19          BENNY WAMPLER: Any other questions?

20                (No audible response.)

21          BENNY WAMPLER: Call your next witness.

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ROBERT A. DAHLIN, II

having been duly sworn, was examined and testified as follows:

QUESTIONS BY MR. KISER:

Q. Mr. Dahlin, could state your name for the Board, who you are employed by and in what capacity?

A. My name is Robert A. Dahlin, II. I'm employed by Equitable Resources Energy Company, Eastern Region, as a Production Specialist.

Q. And you, on numerous occasions, your qualifications as an expert in the area of production and operations have been accepted by the Virginia Gas & Oil Board?

A. Yeah, that's correct.

Q. And do your responsibilities include the land involved here and in the surrounding area?

A. Yes.

Q. Are you familiar with the plan of development for VC-3900?

A. Yes, I am.

Q. And what is the total depth of the proposed well under the plan of development?

A. Two thousand two hundred and ten (2,210)

1 feet.

2 Q. And will this be sufficient to penetrate and  
3 test the common sources of supply in the subject formations?

4 A. Yes, it will.

5 Q. And what are the estimated reserves of the  
6 unit?

7 A. We anticipate three hundred and fifty  
8 million (350,000,000) cubic feet.

9 Q. And are you familiar with the well costs for  
10 the proposed well under the applicant's plan of development?

11 A. Yes.

12 Q. Has an AFE been reviewed, signed and  
13 submitted to the Board as Exhibit C to the application?

14 A. Yes, it has.

15 Q. And was this AFE prepared by an engineering  
16 department knowledgeable in the preparation of AFEs and  
17 knowledgeable in regard to well costs in this area?

18 A. Yes, it was.

19 Q. In your professional opinion, does the AFE  
20 represent a reasonable estimate of the costs for the well  
21 under the applicant's plan of development?

22 A. Yes.

23 Q. At this time, could you state for the Board  
24

1 both the dry hole costs and completed well costs for VC-3900?

2 A. The dry hole costs are ninety-one thousand  
3 three hundred and thirty-one dollars (\$91,331), with a  
4 completed well cost of two hundred thousand and two hundred  
5 dollars (\$220,000).

6 Q. And do these costs anticipate a multiple  
7 completion?

8 A. Yes.

9 Q. Does your AFE include a reasonable charge  
10 for supervision?

11 A. Yes.

12 Q. Mr. Dahlin, in your professional opinion,  
13 will the granting of this application be in the best interest  
14 of conservation, the prevention of waste and the protection  
15 of correlative rights?

16 A. Yes, it would.

17 JIM KISER: Nothing further of this witness, Mr.  
18 Chairman.

19 BENNY WAMPLER: Any questions from members of the  
20 Board of this witness?

21 MASON BRENT: I've got a couple. First of all,  
22 these things most generally seem to have reserves of three  
23 hundred and fifty MCF, is that coincidental or is there some  
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1 geological reason?

2 ROBERT A. DAHLIN, II: It's planning basically.

3 These...these, as well as many we had the last time, were  
4 selected about a year and a half ago. They were selected for  
5 a particular drilling program in which we had particular  
6 partners and they were influenced by the offset drilling  
7 units and their rights to participate or not to participate.

8 That's basically the...how we grade out locations and we put  
9 the programs together based on the economics of those  
10 particular programs. It has been very coincidental.

11 CLYDE KING: I have a question, Mr. Chairman.

12 BENNY WAMPLER: Mr. King.

13 CLYDE KING: What's the life of expectancy of  
14 the...do you have any---?

15 JIM KISER: We don't really know yet.

16 ROBERT A. DAHLIN, II: Well, that's all...it's being  
17 revised all the time. It's very particular in that the  
18 coalbed methane is not a conventional reservoir. It's a  
19 desorbing reservoir. Typically, a conventional gas well,  
20 once it's drilled, will have its highest production initially  
21 and then drop off, and you project the declines on a typical  
22 basis and you can project the life with some great certainty.  
23 Many of these wells incline for a large...well, for

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1 probably...we have some wells that are still inclining. So,  
2 we have...we continuously revise our reserve estimations and  
3 we are continuously putting a target out there and to be  
4 quite honest with you, it's very fluid. We...we...it depends  
5 on the area. We have some...some amount of confidence in  
6 what we think the life is. This is Hurricane Creek.  
7 It's...the very Eastern most development we've had in our  
8 Nora field. It's where we've come to the Board and revised  
9 our field rules and this is probably one of the areas where  
10 we have the least amount of information. So, I can't answer  
11 your question.

12               CLYDE KING: I've often wondered what the life  
13 expectancy...what is the oldest ones you have? Do you have  
14 any idea?

15               ROBERT A. DAHLIN, II: Oh, we were drilling those in  
16 the mid-80s I would suppose...mid-80s. PC-I was the very  
17 first well we've got.

18               CLYDE KING: Still in operation?

19               ROBERT A. DAHLIN, II: Still in operation, and that  
20 well was flat for six (6) or seven (7) years. It didn't...it  
21 inclined for a few years and was flat for several years. So,  
22 we have...we have, you know, some...some handle on our more  
23 developed areas, but it's really...it's really not possible  
24

1 for me to answer that right now.

2 JIM KISER: It's still a fairly...coalbed methane  
3 development is still fairly new animal.

4 ROBERT A. DAHLIN, II: Yeah.

5 CLYDE KING: So, fifteen (15) years or better?

6 ROBERT A. DAHLIN, II: Well, we have some wells that  
7 have been plugged. Just a very few. We have had no wells  
8 that we didn't produce for some amount of time. Some wells  
9 we have, a very few, are not economic from the outset, but  
10 again, like our very first wells are still in operation.

11 MASON BRENT: You say this well is not within the  
12 three hundred (300) foot window?

13 ROBERT A. DAHLIN, II: It is not, but the location  
14 exception has been granted by Tom.

15 MASON BRENT: Okay. And are you accessing this in  
16 any way across Tract Three?

17 ROBERT A. DAHLIN, II: I don't have any knowledge. I  
18 think... Dennis?

19 DENNIS R. BAKER: No, no. It's coming...the access  
20 to it is going to be coming from the northeastern direction  
21 along the top of the ridge, coming down.

22 BENNY WAMPLER: Other questions?

23 TOM FULMER: Mr. Chairman, just a point of  
24  
25

1 clarification. You are going to escrow the unknown?

2 JIM KISER: Right.

3 TOM FULMER: Are you going...are you going to have

4 an internal escrow established?

5 DENNIS R. BAKER: For the unleased portion.

6 TOM FULMER: Yeah.

7 BENNY WAMPLER: All right. Any other questions?

8 (No audible response.)

9 BENNY WAMPLER: Do you have anything further?

10 JIM KISER: Yeah, there's no conflicting claim,

11 though. I mean, it's common ownership.

12 TOM FULMER: I'm not asking that questions. I'm

13 just clarifying the order that you are going to internal

14 escrow for the others. That's the only thing that's going

15 into the order is the unknown.

16 JIM KISER: Right.

17 BENNY WAMPLER: Do you have anything further?

18 JIM KISER: Nothing further except that we'd ask

19 that the application be approved as submitted.

20 MASON BRENT: Mr. Chairman, I move that we approve

21 the application as submitted.

22 DENNIS GARBIS: I second.

23 BENNY WAMPLER: Motion and second, any further

24

1 discussion?

2 (No audible response.)

3 BENNY WAMPLER: All in favor signify by saying yes.

4 (All Members signify by a yes.)

5 BENNY WAMPLER: Opposed say no.

6 (No audible response.)

7 BENNY WAMPLER: You have unanimous approval. The

8 next item on the agenda is a petition from Equitable

9 Resources Energy Company for pooling of a coalbed methane

10 unit identified as VC-3766. This is docket number VGOB-

11 98/08/18-0677. We'd ask the parties that wish to address the

12 Board in this matter to come forward at this time.

13 JIM KISER: Mr. Chairman and members of the Board,

14 Jim Kiser on behalf of Equitable Resources Energy Company.

15 Our witnesses again in this matter will be Mr. Baker and Mr.

16 Dahlin.

17 (Mr. Baker gives members a Revised Exhibit.)

18 BENNY WAMPLER: That's a busy plat.

19 JIM KISER: Get your bifocals on.

20 DENNIS GARBIS: You'll get dizzy looking at that

21 thing.

22 BENNY WAMPLER: You may proceed. The witnesses

23 have been previously sworn.

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DENNIS R. BAKER

3 having been duly sworn, was examined and testified as  
4 follows:

5

DIRECT EXAMINATION

6 QUESTIONS BY MR. KISER:

7

Q. Okay. Mr. Baker, state for the Board who  
8 you are employed by and in what capacity?

9

A. My name is Dennis R. Baker. I'm employed by  
10 Equitable Resources Energy Company as Senior Landman.

11

Q. And do your responsibilities include the  
12 land involved in the unit for VC-3766 and in the surrounding  
13 area?

14

A. Yes, they do.

15

Q. And you are familiar with Equitable's  
16 application seeking a pooling order for EREC well number VC-  
17 3766, dated July 17th, 1998?

18

A. Yes.

19

Q. Is Equitable seeking to force pool the  
20 drilling rights underlying the unit as depicted at a Revised  
21 Exhibit A that you just passed out?

22

A. Yes.

23

Q. Could you explain for the Board at this time

24

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1 what these revisions entail?

2           A.       The Revised Exhibit is simply for  
3 clarification in ownership for Tract Number Four, Tract  
4 Number Six, Tract Number Seven and Tract Number Eight. The  
5 coal ownership for those four (4) tracts was left off of the  
6 well plat and we just included those for clarification.

7           Q.       So, it's just additional information?  
8 There's no change in any interest owners or percentages of  
9 interest owned?

10          A.       No, that's correct.

11          Q.       And does the location proposed for well  
12 number VC-3766 fall within the Board's order for the Nora  
13 coalbed gas field?

14          A.       Yes, it does.

15          Q.       Now, prior to the filing this application,  
16 were efforts made to contact each of the unleased respondents  
17 listed in Exhibit B in an attempt made to work out an  
18 agreement regarding the development of the unit?

19          A.       Yes.

20          Q.       Does Equitable own drilling rights in the  
21 unit here?

22          A.       Yes, we do.

23          Q.       What is the interest of Equitable in the gas  
24

1 estate within the unit?

2 A. The interest of Equitable leased in the gas  
3 estate is 62.15 percent.

4 Q. And the interest of Equitable in the coal  
5 estate within the unit?

6 A. The interest in the coal estate leased is  
7 one hundred (100) percent.

8 Q. Okay. And are all the unleased parties  
9 set out in Exhibit B to the application?

10 A. Yes, they are.

11 Q. Now, subsequent to the filing of your  
12 application, did you continue to attempt to reach an  
13 agreement with those unleased respondents listed in Exhibit  
14 B?

15 A. Yes.

16 Q. And as a result of those efforts, have you  
17 been successful in obtaining any additional leases?

18 A. No, we have not.

19 Q. So, at this time, based upon your testimony,  
20 what is the unleased interest within the gas estate?

21 A. The unleased interest in gas is 37.85  
22 percent.

23 Q. And the coal estate as you stated earlier is  
24

1 one hundred (100) percent leased?

2 A. That's correct.

3 Q. And we also have some unknown heirs in this  
4 unit, Mr. Baker. Were reasonable and diligence efforts made  
5 and sources checked to identify and locate these unknown  
6 heirs---?

7 A. Yes.

8 Q. ---including primary sources such as deed  
9 records, probate records, assessor's records, treasurer's  
10 records and secondary sources such as telephone directories,  
11 city directories, family and friends?

12 A. Yes.

13 Q. In your professional opinion, was due  
14 diligence exercised to locate each of the respondents named  
15 herein?

16 A. Yes.

17 Q. And are the addresses set out in Exhibit B  
18 to the application the last known addresses for the  
19 respondents?

20 A. Yes, it is.

21 Q. And are you requesting the Board to force  
22 pool all unleased interest listed in Exhibit B?

23 A. Yes, we are.

24

--

1                   Q.       And are you familiar with the fair market  
2 value of drilling rights in the unit here and in the  
3 surrounding area?

4                   A.       Yes, I am.

5                   Q.       Could you advise the Board as to what those  
6 are?

7                   A.       A five dollar (\$5) per acre consideration, a  
8 five (5) year term, one-eighth of eight-eighth royalty.

9                   Q.       Did you gain this familiarity by the  
10 acquisition of oil and gas leases, coalbed methane leases and  
11 other agreements involving the transfer of drilling rights in  
12 the unit here and in the surrounding area?

13                  A.       Yes.

14                  Q.       And in your professional opinion, do the  
15 terms you've testified to represent the fair market value of  
16 and the fair and reasonable compensation to be paid for  
17 drilling rights within this unit?

18                  A.       Yes.

19                  JIM KISER: Mr. Chairman, as to the elections  
20 afforded the unleased parties, should there be a pooling  
21 order and their time periods in which to respond and make  
22 these elections, we would like to ask the Board at this time  
23 to incorporate the testimony that was taken in VGOB docket  
24

1 number 98-18...08/18-0676, earlier this morning.

2 BENNY WAMPLER: They will be incorporated.

3 Q. Mr. Baker, do you recommend that the pooling  
4 order provide that if payment cannot be paid to a party for  
5 any reason, or there is a title defect in the respondent  
6 interest or as here, in the case of conflicting claims to the  
7 coalbed methane, that the operator pay into an escrow account  
8 created by this Board into which all costs or proceeds  
9 attributable to the conflicting interest are held for the  
10 respondent's benefit until such funds can be paid to the  
11 party by order of the Board, or until the title defect or  
12 conflicting claim is resolved to the operator's satisfaction?

13 A. Yes.

14 Q. And who should be named the operator under  
15 this force pooling order?

16 A. Equitable Resources Energy Company.

17 JIM KISER: No further questions of this witness at  
18 this time, Mr. Chairman.

19 BENNY WAMPLER: Any questions from members of the  
20 Board of this witness?

21 (No audible response.)

22 BENNY WAMPLER: Call your next witness.

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ROBERT A. DAHLIN, II

5 having been duly sworn, was examined and testified as

6 follows:

7 QUESTIONS BY MR. KISER:

8 Q. Mr. Dahlin, again state your name for the  
9 Board, who you're employed by and in what capacity?

10 A. My name is Robert A. Dahlin, II. I'm  
11 employed by Equitable Resources Energy Company, Eastern  
12 Region, as Production Specialist.

13 Q. And your responsibilities include in the  
14 land here and in the surrounding area?

15 A. That's correct.

16 Q. Are you familiar with Equitable's plan of  
17 exploration and---?

18 A. Yes.

19 Q. ---development for this unit?

20 A. Yes. Uh-huh.

21 Q. And what is the total depth of the proposed  
22 well?

23 A. Two thousand eight hundred and fifty-five

24

--

1 (2,855) feet.

2 Q. And this will be sufficient to penetrate and  
3 test the common sources as supplied in the subject  
4 formations?

5 A. Yes, it will.

6 Q. What are the estimated reserves of this  
7 unit?

8 A. Three hundred and fifty million  
9 (350,000,000) cubic feet.

10 Q. Are you familiar with the well costs for the  
11 proposed well under the applicant's plan of development?

12 A. Yes, I am.

13 Q. And has an AFE been reviewed, signed and  
14 submitted to the Board as Exhibit C to the application?

15 A. Yes.

16 Q. And was this AFE prepared by an engineering  
17 department knowledgeable in the preparation of AFEs and  
18 knowledgeable in regard to well costs in this particular  
19 area?

20 A. Yes.

21 Q. In your professional opinion, does this AFE  
22 represent a reasonable estimate of the well costs for the  
23 proposed well under the applicant's plan of development?

24

--

1                   A.       Yes.

2                   Q.       At this time, state for the Board both the  
3 dry hole costs and completed well costs for VC-3766?

4                   A.       The dry hole costs are ninety-eight thousand  
5 nine hundred and forty-five dollars (\$98,945), and a  
6 completed well costs are one hundred and ninety-nine thousand  
7 two hundred dollars (\$199,200).

8                   Q.       And do these costs anticipate a multiple  
9 completion?

10                  A.       Yes, they do.

11                  Q.       And does the AFE include a reasonable charge  
12 for supervision?

13                  A.       Yes.

14                  Q.       Mr. Dahlin, in your professional opinion,  
15 will the granting of this application be in the best interest  
16 of conservation, the prevention of waste and the protection  
17 of correlative rights?

18                  A.       Yes, it would.

19                  JIM KISER: Nothing further of this witness at this  
20 time, Mr. Chairman.

21                  BENNY WAMPLER: Any questions from members of the  
22 Board?

23                  (No audible response.)

24

--

1           BENNY WAMPLER: Do you have anything further?

2           JIM KISER: We'd ask that the application be

3 approved as submitted.

4           MASON BRENT: I move that we approve the application

5 as submitted.

6           BENNY WAMPLER: A motion.

7           CLYDE KING: I have a question if I may? Where is

8 the well being drilled on this? I can't seem to put my

9 finger on it.

10          ROBERT A. DAHLIN, II: It's in the---.

11          JIM KISER: In that southwest corner.

12          ROBERT A. DAHLIN, II: Right. But in---.

13          JIM KISER: Of the interior window.

14          ROBERT A. DAHLIN, II: Where it is labeled VC-3766.

15          JIM KISER: Just to the left of the VC.

16          CLYDE KING: Okay. Yeah. I second the motion.

17          BENNY WAMPLER: Motion and second. Any further

18 discussion?

19          (No audible response.)

20          BENNY WAMPLER: All in favor, signify by saying

21 yes.

22          (All members signify by yes.)

23          BENNY WAMPLER: Opposed, say no.

24

1 (No audible response.)

2 BENNY WAMPLER: Unanimous approval.

3 The next item on the agenda the Board will consider  
4 a petition from Equitable Resources Energy Company, for  
5 pooling of a coalbed methane gas unit identified as VC-3756.

6 This is docket number VGOB-98-08/18-0678. We'd ask the  
7 parties that wish to address the Board in this matter to come  
8 forward at this time.

9 JIM KISER: Mr. Chairman, Jim Kiser on behalf of  
10 Equitable Resources Energy Company, Eastern Region. Our  
11 witnesses again in this matter will again be Mr. Baker and  
12 Mr. Dahlin. We have a Revised Exhibit B that I'll...Mr. baker  
13 will pass out before we get started.

14 (Mr. Baker passes out the Revised Exhibit.)

15 BENNY WAMPLER: The record will show there are no  
16 others. Your witnesses have been previously sworn. You may  
17 proceed.

18

19 DENNIS R. BAKER

20 having been duly sworn, was examined and testified as  
21 follows:

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KISER:

24

--

1                   Q.       Mr. Baker, could you state your name for the  
2 Board and who you are employed by and in what capacity?  
3                   A.       My name is Dennis R. Baker. I'm employed by  
4 Equitable Resources Energy Company as Senior Landman.  
5                   Q.       And do your responsibilities include the  
6 land involved in the unit here and in the surrounding area?  
7                   A.       Yes, they do.  
8                   Q.       And are you familiar with Equitable's  
9 application seeking a pooling order for EREC well number VC-  
10 3756, which was dated July 17th, 1998?  
11                  A.       Yes.  
12                  Q.       And is Equitable seeking to force pool the  
13 drilling rights as depicted at Exhibit A to the plat to the  
14 application?  
15                  A.       Yes, sir.  
16                  Q.       And does the location proposed for well  
17 number VC-3756 fall within the Board's order for the Nora  
18 coalbed gas field?  
19                  A.       Yes.  
20                  Q.       Now, Mr. Baker, prior to filing this  
21 application, were efforts made to contact each of the  
22 respondents in an attempt made to work out an agreement  
23 regarding the development of the unit?

24

--

1           A.       Yes.

2           Q.       And does Equitable own drilling rights in  
3 the unit involved here?

4           A.       Yes, we do.

5           Q.       And what is the interest under lease to  
6 Equitable in the gas estate within the unit?

7           A.       The interest leased to Equitable in the gas  
8 estate is 23.08 percent.

9           Q.       And what is the interest under lease to  
10 Equitable in the coal estate within the unit?

11          A.       The interest leased in the coal estate is  
12 one hundred (100) percent.

13          Q.       Okay. Now, I saw a puzzled look on Mr.  
14 Garbis' face, so we are going to detour a little bit here.  
15 Can you explain the---?

16          MR. GARBIS: Yeah.

17          Q.       ---percentage leased of the gas estate  
18 within this coalbed methane unit, which I might add is in  
19 full compliance with any statutory requirement?

20          A.       Tract Number One, which is the drill site  
21 tract, the oil and gas rights are owned by the N. K. Rasnic  
22 heirs. The coal is owned by the Pittston Company, I believe.  
23 No, I'm sorry. The Lambert Company, which is under lease.  
24

1 Q. A. J. Lambert?

2 A. A. J. Lambert, uh-huh, which is leased to

3 Equitable. Surface ownership is owned by Pittston or

4 Clinchfield.

5 JIM KISER: So, we did the title work on this and

6 we---?

7 DENNIS GARBIS: One hundred (100) percent of the

8 surface?

9 DENNIS R. BAKER: The coal estate is owned by the A.

10 J. Lambert, et al group. It's under lease. The surface

11 ownership is one hundred (100) percent owned by Clinchfield

12 or Pittston.

13 DENNIS GARBIS: Uh-huh. And the gas?

14 DENNIS R. BAKER: The gas is owned by N. K. Rasnic

15 heirs, which is unleased.

16 DENNIS GARBIS: Is there a particular reason or a

17 particular problem because I think that only...that amount is

18 what, 76 percent of the unleased? I mean, is there a---?

19 JIM KISER: At the time we filed the application, we

20 had not identified all of the Rasnic heirs. We did the title

21 work on this, and if my memory is correct, 1942. There is a

22 Chancery suit regarding the ownership of this particular

23 tract and at that time there were forty-two (42) heirs and as

24

1 you can see and, you know, we were not able to identify all  
2 of them in the chain of title. You've got all kinds of  
3 people as you're...I'm sure you are aware with dying  
4 intestate and there is no list of heirs, no affidavits of  
5 heirship filed and I think that my client should be applauded  
6 for the work that they have done between the time that this  
7 application was filed and this hearing to have identified  
8 this many of the heirs and they're continuing to attempt to  
9 identify them and, you know, pick up voluntary lease  
10 agreements from all of them that they can. But it's a  
11 situation where---?

12 MASON BRENT: But you still---.

13 JIM KISER: ---it's a situation where this  
14 particular tract was, title wise, came out in the unknown  
15 heirs of N. K. Rasnic and therefore that represent...you  
16 know, normally we...obviously, we come before the Board with  
17 ninety (90) some percent of our units under voluntary lease.  
18 So, this is an exception to that rule based upon the  
19 peculiarities of the ownership of that...of those two (2)  
20 particular tracts, Tract One and Two.

21 DENNIS R. BAKER: Uh-huh.

22 JIM KISER: But by statute, there is no requirement  
23 that a certain percentage of a coalbed methane lease unit be  
24

1 under lease prior to coming before the Board to seek a force  
2 pooling order.

3 BENNY WAMPLER: Mr. Brent.

4 MASON BRENT: Thank you. In the Revised Exhibit B,  
5 though, there's no increased percentage of lease, it's the  
6 same?

7 JIM KISER: We haven't...we've just now identified  
8 these people and we haven't...in our continued due diligence,  
9 picked up any more leases in the meantime. And you may also  
10 note that in...under a lot of those heirs' names, we are  
11 still trying to get addresses for them. So, I mean, if  
12 we---

13 MASON BRENT: So, the only revision is that you have  
14 identified...you found some people?

15 JIM KISER: Right. Rather than put them unknown, in  
16 our continued due diligence, we have identified a whole bunch  
17 of them.

18 BENNY WAMPLER: Any other questions at this time?

19 (No audible response.)

20 BENNY WAMPLER: You may proceed.

21 Q. Now, Mr. Baker, are all the unleased parties  
22 set out in Exhibit B?

23 A. Yes, they are.

24

--

1                   Q.       Okay. Now, so you are familiar with the  
2 drilling rights other than equitable underlying the unit.  
3 What is the unleased portion of the gas estate within the  
4 unit?

5                   A.       The unleased portion of the gas is 76.92  
6 percent.

7                   Q.       Now, we've talked about this, but we will  
8 just...to get it into the record we...in your opinion, were  
9 reasonable diligent efforts made and sources identified and  
10 checked to locate any unknown heirs including primary sources  
11 such as deed records, probate records, assessor's records,  
12 Treasurer's records and secondary sources such as telephone  
13 directories, city directories, family and friends?

14                  A.       Yes.

15                  Q.       And in your professional opinion, was due  
16 diligence exercised to locate each of the respondents named  
17 in the Revised Exhibit B?

18                  A.       Yes.

19                  Q.       And are the addresses set out in Revised  
20 Exhibit B to the application the last known addresses for the  
21 unleased respondents?

22                  A.       Yes, it is.

23                  Q.       Are you requesting this Board to force pool  
24

1 all unleased interests listed in the Revised Exhibit B?

2 A. Yes.

3 Q. And are you familiar with the fair market  
4 value of drilling rights in the unit here and in the  
5 surrounding area?

6 A. Yes, I am.

7 Q. Could you advise the Board as to what those  
8 are?

9 A. A five dollar (\$5) per acre consideration, a  
10 five (5) year term, one-eighth of eight-eighths royalty.

11 Q. And you gain this familiarity by the  
12 acquisition of oil and gas leases, coalbed methane leases and  
13 other agreements involving the transfer of drilling rights in  
14 the unit involved here and in the surrounding area?

15 A. Yes.

16 Q. In your opinion, do the terms you've  
17 testified to represent the fair market value of and the fair  
18 and reasonable compensation to be paid for drilling rights  
19 within this unit?

20 A. Yes.

21 JIM KISER: Mr. Chairman, at this time, we would  
22 ask again that the testimony regarding elections afforded the  
23 unleased respondents and their time periods in which to

24

--

1 respond or make those elections that was previously taken in  
2 VGOB docket number 98/08/18-0676 be incorporated for this  
3 hearing.

4 BENNY WAMPLER: They will be incorporated.

5 Q. Mr. Baker, do you recommend that the force  
6 pooling order provide that if a payment cannot be paid to a  
7 party for any reason or there is a title defect in  
8 respondent's interest or in the event of conflicting claims  
9 to the coalbed methane, that the operator will pay in escrow  
10 account created by this Board all costs or proceeds  
11 attributable to that conflicting interest to be held for the  
12 respondent's benefit until such funds can be paid to the  
13 party either by order of the Board, or until the title defect  
14 or conflicting claim is resolved to the operator's  
15 satisfaction?

16 A. Yes.

17 Q. And who should be named the operator under  
18 this force pooling order?

19 A. Equitable Resources Energy Company.

20 JIM KISER: Nothing further of this witness at this  
21 time, Mr. Chairman.

22 BENNY WAMPLER: Any questions from members of the  
23 Board?

24

--

1 (No audible response.)

2 BENNY WAMPLER: Call your next witness.

3

4

5

6 ROBERT A. DAHLIN, II

7 having been duly sworn, was examined and testified as

8 follows:

9 QUESTIONS BY MR. KISER:

10 Q. Mr. Dahlin, please state your name for the  
11 Board, who you're employed by and in what capacity?

12 A. Robert A. Dahlin, II. I'm employed by  
13 Equitable Resources Energy Company, Eastern Region, as a  
14 Production Specialist.

15 Q. And do your responsibilities include the  
16 lands involved here and in the surrounding area?

17 A. That's correct.

18 Q. And you are familiar with the applicant's  
19 proposed plan of development for well number VC-3756?

20 A. Yes, I am.

21 Q. And what is the total depth of that well?

22 A. Twenty-four hundred and thirteen (2,413)  
23 feet.

24

--

1                   Q.       And this will be sufficient to penetrate and  
2 test any common sources as supplied in the subject  
3 formations?

4                   A.       Yes.

5                   Q.       And what are the estimated reserves of the  
6 unit for 3756?

7                   A.       Once again, they are three hundred and fifty  
8 million (350,000,000) cubic feet. In this case, again, like  
9 I was explaining it in an earlier case, because of the risk  
10 and the structure of our joint venture here, there is no  
11 wells near...within several miles of this location. There's  
12 no pipeline gathering system and no compressor. We are  
13 planning. We've mapped the area coal thickness wise. We  
14 think three hundred and fifty million (350,000,000) cubic  
15 feet is a reasonable estimate in this case based on the coal  
16 we know is in place in analogies to other locations. But  
17 again, based on the risk and the way our joint venture is  
18 structured, three hundred and fifty million (350,000,000)  
19 cubic feet was our financial hurdle that we needed to  
20 accomplish and that's why we've assigned three hundred and  
21 fifty million (350,000,000) cubic feet in this particular  
22 case.

23                   Q.       Are you familiar with the cost for the  
24

1 proposed well under the applicant's plan of development?

2 A. Yes.

3 Q. Has an AFE been reviewed, signed and  
4 submitted to the Board as Exhibit C to the application?

5 A. Yes.

6 Q. And was this AFE prepared by an engineering  
7 department knowledgeable in the preparation of AFEs and  
8 knowledgeable in regard to well costs in this particular  
9 area?

10 A. That's correct.

11 Q. In your professional opinion, does the AFE  
12 represent a reasonable estimate of the well costs for the  
13 proposed well under the applicant's plan of development?

14 A. Yes.

15 Q. Could you tell the Board at this point what  
16 the dry hole costs and completed well costs for VC-3756 are?

17 A. Dry hole costs are ninety-one thousand nine  
18 hundred and eighty-seven dollars (\$91,987), with a completed  
19 well costs of one hundred and eighty-six thousand two hundred  
20 dollars (\$186,200).

21 Q. And do these costs anticipate a multiple  
22 completion?

23 A. Yes, they do.

24

--

1                   Q.       And does the AFE include a reasonable charge  
2 for supervision?

3                   A.       Yes.

4                   Q.       Mr. Dahlin, in your professional opinion,  
5 will the granting of this application be in the best interest  
6 of conservation, the prevention of waste and the protection  
7 of correlative rights?

8                   A.       Yes, it would.

9                   JIM KISER: Nothing further of this witness at this  
10 time, Mr. Chairman.

11                  BENNY WAMPLER: Any questions from members of the  
12 Board of this witness?

13                  CLYDE KING: When do you...excuse me.

14                  BENNY WAMPLER: Go on. Mr. King.

15                  CLYDE KING: When do you plan to drill? Do you have  
16 a time frame?

17                  ROBERT A. DAHLIN, II: No, not really. We are  
18 already constructing a compressor site, a pipe line system.  
19 This is one of, you know, several wells we would...we did  
20 plan that the element of development in there based on---.  
21 So, as soon as this well is approved and permitted, we will  
22 just put it in our drilling schedule and it will be  
23 completed, even though it won't go on line until the rest of  
24

1 our systems can be completed.

2 CLYDE KING: So, you are talking about a year or so?

3 ROBERT A. DAHLIN, II: Actually, I think we...we've  
4 been pretty successful with the weather. The compressor site  
5 is under construction. I'd say it would probably be...well,  
6 it should be less than a year, you know, substantially for  
7 completion in sales. But this well---.

8 JIM KISER: You will drill it this fall, won't you?

9 ROBERT A. DAHLIN, II: ---we will drill it as soon  
10 as we could work it into our drilling schedule and the rigs  
11 could be available.

12 BENNY WAMPLER: Other questions?

13 (No audible response.)

14 BENNY WAMPLER: Do you have anything further?

15 JIM KISER: We'd ask that the application be  
16 approved as submitted, Mr. Chairman.

17 BENNY WAMPLER: Do I have a motion?

18 CLYDE KING: I move it be approved.

19 DENNIS GARBIS: I second.

20 BENNY WAMPLER: Motion and seconded. Any further  
21 discussions?

22 (No audible response.)

23 BENNY WAMPLER: All in favor signify by saying yes.

24

--

1 (All members signify by a yes.)  
2 BENNY WAMPLER: Opposed say no.  
3 (No audible response.)  
4 CLYDE KING: How far do you have to build your lines  
5 to tie into the system, quite a ways?  
6 ROBERT A. DAHLIN, II: I can see it on a map, Clyde,  
7 but I'm not sure of the specific distance. I would say  
8 it...from my recollection, I think probably two and a half to  
9 three miles, something like that.  
10 CLYDE KING: Not that far.  
11 ROBERT A. DAHLIN, II: Not too bad, no.  
12 BENNY WAMPLER: Even though we just approved that,  
13 just for explanation, Tom has raised a question about  
14 the...Tract One and Two. Why the separation of the two?  
15 Just for the record, can you tell us...the same heirs?  
16  
17 DENNIS R. BAKER: Let's see. The separation would  
18 be because of the surface ownership between one and two.  
19 Surface ownership was not identified on Tract Two. Tract One  
20 is Clinchfield. The oil and gas estate on one and two is  
21 both owned by the N. K. Rasnic and the coal estate on both  
22 One and Two is owned by A. J. Lambert, et al. The only  
23 difference that we have identified is that Tract One surface  
24

1 is the Clinchfield.

2           TOM FULMER: The only reason I asked is that it was  
3 the plat, you know, mineral lines, no surface.

4           DENNIS R. BAKER: That should...that's the only  
5 difference that shows on the attachment to the well plat.

6           TOM FULMER: Yeah, I understand that. But what I  
7 saying is on the mineral plat---

8           DENNIS R. BAKER: Uh-huh.

9           TOM FULMER: ---on the plat that we have here, you  
10 just show mineral lines and no surface lines and I was asking  
11 why...what I was talking to Mr. Chairman about was why  
12 there's a difference between your one...number one mineral  
13 tracts and number Two mineral tracts?

14           ROBERT A. DAHLIN, II: Basically...Dennis, you  
15 are..the light lines for surface should be on top of the  
16 heavy line.

17           DENNIS R. BAKER: There should have been a light  
18 line separating them. The line that separates Tract One and  
19 Two should have been in the smaller thinner designation  
20 versus the mineral line.

21           TOM FULMER: I...just a point of clarification.

22           DENNIS R. BAKER: Yeah.

23           JIM KISER: It should be drawn through there.

24

--

1           BENNY WAMPLER: They would be overlaid is what  
2 you're saying...right over the---?

3           JIM KISER: Yeah.

4           DENNIS R. BAKER: Uh-huh.

5           JIM KISER: It should be drawn right through here.

6           BENNY WAMPLER: All right. Thank you.

7           TOM FULMER: Thank you.

8           BENNY WAMPLER: Thank you.

9           The next item on the agenda is a petition from  
10 Equitable Resources Energy Company for pooling of a coalbed  
11 methane unit identified as VAD-3811, docket number VGOB-  
12 98/08/18-0679. We'd ask the parties that wish to address the  
13 Board in this matter to come forward at this time, please.

14           JIM KISER: Mr. Chairman and members of the Board,  
15 Jim Kiser on behalf of Equitable Resources Energy Company,  
16 Eastern Region. Our witnesses in this matter will again be  
17 Mr. Baker and Mr. Dahlin. This is another one of the dual  
18 wells that we are currently in the process of drilling and we  
19 are going to first seek a pooling order for the coalbed  
20 methane unit, and then following that, seek a order for the  
21 conventional gas unit.

22           BENNY WAMPLER: Your witnesses have been previously  
23 sworn.

24

--

1

2

DENNIS R. BAKER

3 having been duly sworn, was examined and testified as  
4 follows:

5

DIRECT EXAMINATION

6 QUESTIONS BY MR. KISER:

7

Q. Mr. Baker, if you would state your name for  
8 the Board, who you are employed by and in what capacity?

9

A. My name is Dennis R. Baker. I'm employed by  
10 Equitable Resources Energy Company as Senior Landman.

11

Q. And do your responsibilities include the  
12 land involved here for VAD-3811 and in the surrounding area?

13

A. Yes, they do.

14

Q. And are you familiar with Equitable's  
15 application for well number VAD-3811, dated July 17, 1998?

16

A. Yes.

17

Q. And does Equitable own drilling rights in  
18 the CBM unit involved here?

19

A. Yes, they do.

20

Q. And does the proposed unit for the CBM well  
21 as depicted at Exhibit A, that being the plat to the  
22 application fall within the Board's order for the Nora  
23 coalbed gas field?

24

--

1 A. Yes.

2 Q. Now, what was the interest of Equitable at  
3 the time of application within the coalbed methane unit,  
4 first under the gas estate and then second under the coal  
5 estate?

6 A. The interest leased to Equitable in the gas  
7 estate is 92.775 percent. The interest leased to Equitable  
8 in the coal estate is one hundred (100) percent.

9 Q. Now, are all the unleased parties set out in  
10 your Revised Exhibit B that you just passed out to the Board?

11 A. Yes, they are.

12 Q. And could you explain the revision in that  
13 revised Exhibit B versus the Exhibit B that was filed with  
14 the application on July 17?

15 A. The Revised Exhibit B, on page two, Tract  
16 Number Nine of Bendigo Kiser heirs, we have identified some  
17 of those folks and we are still attempting to identify some  
18 of the additional owners. Tract Number---.

19 BENNY WAMPLER: No leases or anything, just identify  
20 the additional owners?

21 DENNIS R. BAKER: Right. No new leases. Tract  
22 Number Ten, which was identified as the Bendigo Kiser on the  
23 new Exhibit B...the Revised B on page six is...it just shows

24

--

1 all the Bendigo Kiser that we have identified at this time.  
2 And Tract Number Fifteen was added to the Exhibit. It was  
3 left off of the application or Exhibit filed with the  
4 application.

5 JIM KISER: So, that's a tract that's in the  
6 conventional unit, but not in the CBM unit and the original  
7 Exhibit to the application didn't list it under the coalbed  
8 methane unit as not being in the coalbed methane unit. So,  
9 for congruent purposes, that's been revised.

10 Q. Okay. Mr. Baker, are all of the unleased  
11 parties set out in the revised Exhibit B?

12 A. Yes, they are.

13 Q. And prior to filing the applications,  
14 efforts were made to contact each of the respondents in an  
15 attempt made to work out an agreement regarding the  
16 development of the unit?

17 A. Yes.

18 Q. And subsequent to the filing of this  
19 application, have you continued to attempt to reach an  
20 agreement with any unleased respondents listed in Exhibit B?

21 A. Yes.

22 Q. Revised Exhibit B, excuse me?

23 A. Yes.

24

--

1           Q.       And as a result of those efforts, you have  
2 testified that you have been, at this point, unable to  
3 acquire any additional leases from the unleased parties  
4 listed in the Revised Exhibit B, is that correct?

5           A.       Yes, that's correct.

6           Q.       Okay. Now, were reasonable and diligent  
7 efforts were made and sources checked to identify and locate  
8 any unknown heirs including primary sources such as deed  
9 records, probate records, assessor's records, Treasurer's  
10 records and secondary sources such as telephone directories,  
11 city directories, family and friends?

12          A.       Yes.

13          Q.       In your professional opinion, was due  
14 diligence exercised to locate each of the respondents named  
15 in the revised Exhibit B?

16          A.       Yes.

17          Q.       Okay. Are the addresses that are set out in  
18 the Revised Exhibit B to the application the last known  
19 addresses for any respondents?

20          A.       Yes.

21          Q.       And are you requesting this Board to force  
22 pool all unleased interests listed in the Revised Exhibit B?

23          A.       Yes.

24

--

1                   Q.       Now, are you familiar with the fair market  
2 value of drilling rights in the unit here and in the  
3 surrounding area?

4                   A.       Yes, I am.

5                   Q.       Could you advise the Board as to what those  
6 are?

7                   A.       A five dollar (\$5) per acre consideration, a  
8 five (5) year term, one-eighth of eight-eighths royalty.

9                   Q.       Did you gain this familiarity by the  
10 acquiring of oil and gas leases and other agreements  
11 involving the transfer of drilling rights in the unit  
12 involved here and in the surrounding area?

13                  A.       Yes.

14                  Q.       And in your professional opinion, do the  
15 terms you've testified to represent the fair market value of  
16 and the fair and reasonable compensation to be paid to any  
17 unleased respondents listed within the Revised Exhibit B?

18                  A.       Yes.

19                  JIM KISER: Mr. Chairman, at this time, as to the  
20 testimony regarding the election options and the different  
21 times afforded the respondents to make those options that was  
22 previously taken VGOB number 98/08/18-0676, we'd ask that be  
23 incorporated.

24

--

1           BENNY WAMPLER: They will be incorporated.

2           Q.       Okay. Mr. Baker, do you recommend that the  
3 force pooling order provide that if a payment cannot be paid  
4 to a party for any reason, or there are unknown/unlocateable  
5 royalty interest owners out of the gas estate or coal estate,  
6 or there is a title defect in the respondent interest or  
7 there is a conflicting claim to the coalbed methane, that the  
8 operator create an escrow account for the respondent's  
9 benefits until the money can be paid to the party or until  
10 the until the title defect or conflicting claim is cured to  
11 the operator's satisfaction?

12           A.       Yes.

13           Q.       And Mr. Baker, who should be named the  
14 operator under any force pooling order?

15           A.       Equitable Resources Energy Company.

16           JIM KISER: That's all I have for this witness at  
17 this time, Mr. Chairman.

18           BENNY WAMPLER: Questions of this witness from  
19 members of the Board?

20           MASON BRENT: I have just one, Mr. Chairman.

21           BENNY WAMPLER: Mr. Brent.

22           MASON BRENT: Of the people you have identified on  
23 the Revised Exhibit B, have you actually been in contact yet  
24

1 with any of them or have you just identified them?

2 DENNIS R. BAKER: We've been in contact with as many  
3 folks as we possibly can. We're trying to...anytime we get  
4 an address or phone, we get in touch with to---.

5 MASON BRENT: Right away.

6 DENNIS R. BAKER: Yes. To try and see if we can  
7 find out anymore information about any of the heirs.

8 MASON BRENT: Okay.

9 BENNY WAMPLER: Other questions?

10 (No audible response.)

11 BENNY WAMPLER: Call your next witness.

12

13 ROBERT A. DAHLIN, II

14 having been duly sworn, was examined and testified as  
15 follows:

16 QUESTIONS BY MR. KISER:

17 Q. Mr. Dahlin, could you again state your name  
18 for the Board, who you're employed by and in what capacity?

19 A. Robert A. Dahlin, II. I'm employed by  
20 Equitable Resources Energy Company, Eastern Region, as a  
21 Production Specialist.

22 Q. And you have testified before the Board on  
23 previous occasions concerning these dual wells and have

24

--

1 explained to the Board those wells essentially operate and  
2 how the production of them takes place?

3 A. Yes, I have.

4 Q. And do your responsibilities include in the  
5 land here and in the surrounding area?

6 A. Yes.

7 Q. And you are familiar with the proposed plan  
8 of exploration and development of this unit?

9 A. Yes, I am.

10 Q. And what is the total depth of the CBM under  
11 the plan of development?

12 A. Two thousand eight hundred and fifty (2,850)  
13 feet.

14 Q. And this will be sufficient to penetrate and  
15 test the common sources as supplied in the subject  
16 formations?

17 A. Yes.

18 Q. And what are the estimated reserves that are  
19 being allocated to the CBM unit?

20 A. For the CBM unit specifically, three hundred  
21 and fifty million (350,000,000) cubic feet.

22 Q. And you are familiar with the well costs for  
23 the well under the plan of development?

24

--

1           A.       Yes.

2           Q.       And an AFE been reviewed, signed and  
3 submitted to the Board as Exhibit C to the application?

4           A.       Yes.

5           Q.       And was this AFE prepared by an engineering  
6 department knowledgeable in such preparation of AFEs and  
7 knowledgeable in regard to well costs in particular for dual  
8 wells in this area?

9           A.       That's correct.

10          Q.       And does this AFE represent a reasonable  
11 estimate of the well costs for the proposed CBM well under  
12 the applicant's plan of development?

13          A.       Yes.

14          Q.       Would you state both the dry hole costs and  
15 the completed well costs for the CBM unit under VAD-3811?

16          A.       The dry hole costs in this situation are  
17 seventy-three thousand two hundred and fifty dollars  
18 (\$73,250), and the completed CBM is one hundred and sixty-  
19 eight thousand dollars (\$168,000).

20          Q.       And do these costs anticipate a multiple  
21 completion?

22          A.       Yes.

23          Q.       Does your AFE include a reasonable charge  
24

1 for supervision?

2 A. Yes.

3 Q. In your professional opinion, will the  
4 granting of this application be in the best interest of  
5 conservation, the prevention of waste and the protection of  
6 correlative rights?

7 A. Yes, it would.

8 JIM KISER: Nothing further of this witness at this  
9 time, Mr. Chairman.

10 BENNY WAMPLER: Any questions from members of the  
11 Board?

12 MASON BRENT: Again, the three fifty is just your  
13 hurdle rate?

14 ROBERT A. DAHLIN, II: Well, in this case, this is  
15 in a very developed section of our field and this is very  
16 close to what we anticipate the CBM side. It...actually,  
17 it's a very light well and that's why we are proposing a dual  
18 to go with it so we can re...you know, develop both resources  
19 in the same well and make it more economic.

20 BENNY WAMPLER: Are there other questions?

21 CLYDE KING: I have just a---.

22 BENNY WAMPLER: Mr. King.

23 CLYDE KING: ---question of clarification. How do  
24  
25

1 you separate methane and the---?

2                   ROBERT A. DAHLIN, II: From the conventional gas?

3 Okay. The drilling of the CBM well is basically the first  
4 phase of the drilling of the conventional well. The  
5 conduct...all the pipe sizing we put in here is of larger  
6 sizes to accommodate the same style of production from the  
7 CBM only in larger casing. Those...that strata, that coalbed  
8 strata, will be cemented behind those larger strings of  
9 casing. When I get done here...I'm sorry I didn't make  
10 copies, but I brought a schematic of one of our other  
11 completed wells and I can go over that with you or make  
12 copies of it for you if you like. But basically what happens  
13 is, if you just consider the drilling of a CBM well and its  
14 completion, and then consider that you go in a drill down  
15 through that area, run four and a half production casing  
16 which is smaller than all of the others ones we've got up  
17 above, that sequence will be cemented by itself. Okay. So,  
18 you've got two different sets of pipe. Two different sets of  
19 cement isolating two different reservoirs. Further beyond  
20 that, we run...we back our four and half off so that that  
21 section is down below a CBM side and there is a packer set so  
22 that the production tubing is isolated yet again from the  
23 bigger casing above you which has tubing and broad pumps in

24

--

1 it to pump the water off of the coal...CBM side and that's  
2 difficult. I'd be happy to share---.

3 CLYDE KING: I've often wondered how you keep it  
4 separated.

5 ROBERT A. DAHLIN, II: I don't know...it's probably  
6 really hard to see from there, but these darker sections  
7 represent the cement. This is the CBM total depth and it is  
8 cemented to the surface and it is produced up the annualess  
9 in this area. This other light, or this lighter green string  
10 here, represents the four and a half production casing which  
11 is runned to a total depth and cemented over the sequence we  
12 intend to produce. That production goes up this center  
13 portion. There is a packer set right here which is below all  
14 of perforations in the CBM and the CBM goes up the annualess.  
15 So, there is two separate meters. One meter is the gas from  
16 the annual area, one meter is the gas from the four and a  
17 half area. So, they are metered and paid separately. They've  
18 got different tubing strings. They've got different cement  
19 strings.

20 CLYDE KING: Thank you.

21 ROBERT A. DAHLIN, II: You are welcome.

22 BENNY WAMPLER: Any other questions?

23 MASON BRENT: You've allowed fifteen hundred dollars  
24

--

1 (\$1,500) for royalty meters. How many meters is that?

2 ROBERT A. DAHLIN, II: There be two meters.

3 MASON BRENT: Just the two?

4 ROBERT A. DAHLIN, II: What we did in this case, the

5 dryhole costs in this CBM side are a little bit different and

6 lower than they are on the other ones because we...we

7 anticipate having to reclaim the location on the CBM side if

8 it was CBM only and to plug the well. In this case, we would

9 not be reclaiming the location because there is conventional

10 reserves. We did not put the location restoration in there

11 or the plugging costs because it wouldn't be plugged because

12 we are going for a deeper zone. Everything else is split

13 fifty/fifty because, you know, all the land work. Everything

14 that's involved in clearing one site was used for the benefit

15 of the other one also and they are just split fifteen hundred

16 (1,500) on each.

17 MASON BRENT: So, this fifteen hundred dollars

18 (\$1,500) is the one meter for the CBM?

19 ROBERT A. DAHLIN, II: Right. Right.

20 BENNY WAMPLER: Other questions?

21 (No audible response.)

22 BENNY WAMPLER: Do you have anything further?

23 JIM KISER: Mr. Chairman, we'd ask that the

24

1 application be approved as submitted.

2 DENNIS GARBIS: I move to approve the application.

3 CLYDE KING: Second.

4 BENNY WAMPLER: Motion and second. Any further  
5 discussions?

6 (No audible response.)

7 BENNY WAMPLER: All in favor signify by saying yes.  
8 (All members signify by a yes.)

9 BENNY WAMPLER: Opposed say no.  
10 (No audible response.)

11 BENNY WAMPLER: You have a unanimous approval.

12 The next item on the agenda is a petition from  
13 Equitable Resources Energy Company for a pooling of a  
14 conventional gas unit identified as VAD-3811, docket number  
15 VGOB-98/08/18-0680. We'd ask the parties that wish to  
16 address the Board in this matter to come forward at this  
17 time.

18 JIM KISER: Mr. Chairman and members of the Board,  
19 Jim Kiser again on behalf of Equitable Resources Energy  
20 Company, Eastern Region. Our witnesses again will be Mr.  
21 Baker and Mr. Dahlin.

22 (Mr. Baker hands out an Revised Exhibit.)

23 JIM KISER: Mr. Baker has passed out a revised  
24

1 Exhibit to the conventional unit for the dual well VAD-3811.

2 Correct me if I am wrong, but it's for the same purposes as  
3 you passed out the Revised Exhibit B for the CBM unit.

4 DENNIS R. BAKER: That is correct.

5 JIM KISER: The identification of the...some of the  
6 Bendigo Kiser heirs.

7 BENNY WAMPLER: The witnesses have been previously  
8 sworn. You may proceed.

9

10 DENNIS R. BAKER  
11 having been duly sworn, was examined and testified as  
12 follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15 Q. Mr. Baker, state your name for the record,  
16 who you are employed by and in what capacity?

17 A. My name is Dennis R. Baker. I'm employed by  
18 Equitable Resources Energy Company as Senior Landman.

19 Q. And do your responsibilities include the  
20 land involved here and in the surrounding area?

21 A. Yes, they do.

22 Q. And are you familiar with Equitable's  
23 application for the establishment of a drilling unit and the

24

--

1 seeking a pooling order for EQEC well number VAD-3811, which  
2 was dated July 17th, 1998?

3 A. Yes.

4 Q. Does Equitable own drilling rights in the  
5 unit as depicted at Exhibit A?

6 A. Yes, we do.

7 Q. And does the proposed unit for the  
8 conventional well depicted at Exhibit A include all acreage  
9 within twenty-five hundred (2,500) feet that being a twelve  
10 hundred and fifty (1,250) foot radius of proposed well VAD-  
11 3811?

12 A. Yes.

13 Q. And what is the interest under lease to  
14 Equitable at the time of the filing of the application in the  
15 conventional unit?

16 A. The interest leased to Equitable is 88.655  
17 percent.

18 Q. Okay. And are all the unleased parties set  
19 out in Revised Exhibit B?

20 A. Yes, they are.

21 Q. Now, subsequent to the filing of your  
22 application, did you continue to attempt to reach an  
23 agreement with any unleased respondents listed in Revised  
24

1 Exhibit B?

2 A. Yes.

3 Q. And as a result of these efforts, have you  
4 been successful in acquiring any additional leases?

5 A. No.

6 Q. So, can you state for the Board at this time  
7 what the unleased portion of the unit...the conventional unit  
8 for VAD-3811 is?

9 A. The unleased portion of the unit is 11.345  
10 percent.

11 Q. Mr. Baker, were reasonable and diligence  
12 efforts made and sources checked to identify and locate any  
13 unknown heirs including primary sources such as deed records,  
14 probate records, assessor's records, treasurer's records and  
15 any secondary sources such as telephone directories, city  
16 directories, family and friends?

17 A. Yes, they were.

18 Q. In your professional opinion, was due  
19 diligence exercised to locate each of the named respondents  
20 in the Revised Exhibit B?

21 A. Yes.

22 Q. And are the addresses set out in Revised  
23 Exhibit B to the application the last known addresses for the

24

--

1 respondents?

2 A. Yes.

3 Q. Are you requesting this Board to force pool  
4 all unleased interest listed in your Revised Exhibit B?

5 A. Yes.

6 Q. And are you familiar with the fair market  
7 value of drilling rights in the unit here and in the  
8 surrounding area?

9 A. Yes, I am.

10 Q. Please advise the Board as to what those  
11 are.

12 A. A five dollar (\$5) per acre consideration, a  
13 five (5) year term, one-eighth of eight-eighths royalty.

14 Q. Did you gain this familiarity via the  
15 acquisition of oil and gas leases and other agreements  
16 involving the transfer of drilling rights in the unit  
17 involved here and in the surrounding area?

18 A. Yes.

19 Q. And in your professional opinion, do the  
20 terms you've testified to represent the fair market value of  
21 and the fair and reasonable compensation to be paid for  
22 drilling rights within this unit?

23 A. Yes.

24

--

1                   JIM KISER: Mr. Chairman, at this time we'd ask  
2 that the testimony previously taken in our first force  
3 pooling matter this morning, that being VGOB matter 98/08/18-  
4 0676, regarding the election options afforded any unleased  
5 respondents and their time lines to respond to those options  
6 be incorporated into the hearing here.

7                   BENNY WAMPLER: They will be incorporated.

8                   Q.       Now, Mr. Baker, do you recommend that the  
9 order provide that if any payment cannot be paid to a party  
10 for any reason, or there is a title defect in the respondents  
11 interest or an unknown, unlocateable interest owner, that the  
12 operator...that the Board create an escrow account for the  
13 respondent's benefit until the money can be paid to the party  
14 or until the title defect is cured to the operator's  
15 satisfaction?

16                  A.       Yes.

17                  Q.       And who should be named the operator under  
18 the force pooling order?

19                  A.       Equitable Resources Energy Company.

20                  JIM KISER: Nothing further of this witness at this  
21 time, Mr. Chairman.

22                  BENNY WAMPLER: Any questions of this witness from  
23 members of the Board?

24

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1 (No audible response.)

2 BENNY WAMPLER: Call your next witness.

3

4 ROBERT A. DAHLIN, II

5 having been duly sworn, was examined and testified as  
6 follows:

7 QUESTIONS BY MR. KISER:

8 Q. Mr. Dahlin, again state your name for the  
9 record, who you're employed by and in what capacity?

10 A. My name is Robert A. Dahlin, II. I'm  
11 employed by Equitable Resources Energy Company as a  
12 Production Specialist.

13 Q. And you are familiar with the proposed plan  
14 of development for the conventional unit for VAD-3811?

15 A. Yes, I am.

16 Q. And what is the total depth of the proposed  
17 conventional well?

18 A. Five thousand seven hundred and eighty  
19 (5,780) feet.

20 Q. And this will be sufficient to penetrate and  
21 test the common sources as supplied in the subject  
22 formations?

23 A. Yes.

24

--

1                   Q.       What are the estimated reserves allocated to  
2 the conventional unit?

3                   A.       Four hundred and fifty million (450,000,000)  
4 cubic feet.

5                   Q.       Are you familiar with the well costs for the  
6 conventional well under the applicant's plan of development?

7                   A.       Yes, I am.

8                   Q.       And has an AFE been reviewed, signed and  
9 submitted as Exhibit C to the application?

10                  A.       That's correct.

11                  Q.       And this AFE was prepared by an engineering  
12 department knowledgeable in the preparation of such AFEs and  
13 knowledgeable in regard to well costs in this particular  
14 area?

15                  A.       That's correct.

16                  Q.       In your professional opinion, does this AFE  
17 represent a reasonable estimate of the well costs for the  
18 conventional well under the plan of development?

19                  A.       Yes.

20                  Q.       State for the Board at this time both the  
21 dry hole costs and completed well costs on an conventional  
22 unit for 3811?

23                  A.       The dry hole costs are one hundred and  
24

1 thirteen thousand four hundred and fifty dollars (\$113,450),  
2 with a completed well costs of two hundred and twenty-eight  
3 thousand eight hundred dollars (\$228,800).

4 Q. And do these costs anticipate a multiple  
5 completion?

6 A. Yes.

7 Q. And does the AFE include a reasonable charge  
8 for supervision?

9 A. Yes.

10 Q. In your professional opinion, Mr. Dahlin,  
11 will the granting of this application be in the best interest  
12 of conservation, the prevention of waste and the protection  
13 of correlative rights?

14 A. Yes.

15 JIM KISER: Nothing further of this witness at this  
16 time, Mr. Chairman.

17 BENNY WAMPLER: Any questions from members of the  
18 Board?

19 DENNIS GARBIS: Jim, I notice in your AFE over here  
20 that you have a fishing expense. Is that for a fishing  
21 expense for the crew or is this fishing electrical wire  
22 through a conduit?

23 DENNIS GARBIS: That's what it says. Fishing  
24

1 Expenses. I just---.

2 ROBERT A. DAHLIN, II: That's C, none of the above.

3 That's for retrieving lost articles. Like anything that is

4 dropped in the oil. That's what you use.

5 MASON BRENT: How do you allocate your IDC between

6 the two wells?

7 ROBERT A. DAHLIN, II: For instance, on the drilling

8 side, if the contract footage...say, for instance, thirteen

9 dollars (\$13.00) a foot, we split it six fifty and six fifty

10 until the CBM point, from the interval below the CBM down,

11 the thirteen dollars (\$13.00) would apply only to the

12 conventional side. And what we did then is took the total

13 for the conventional side and came up with a drilling rate of

14 say ten dollars (\$10.00) and something. So, we applied the

15 full charges to the conventional when it is just for that use

16 only. Anything that can be shared was split evenly.

17 MASON BRENT: Okay.

18 CLYDE KING: I have a question, Mr. Chairman.

19 BENNY WAMPLER: Mr. King?

20 CLYDE KING: How far is this from that cemetery...

21 the well?

22 ROBERT A. DAHLIN, II: Now, I don't.. Again.

23 Dennis, I'd have to---.

24

25

1                   DENNIS R. BAKER: It's about two hundred and forty-  
2 two (242) foot.  
3                   CLYDE KING: It's not going to affect any---.  
4                   DENNIS R. BAKER: No.  
5                   BENNY WAMPLER: Any other questions?  
6                   (No audible response.)  
7                   CLYDE KING: I move we approve. If there's  
8 any...excuse me.  
9                   BENNY WAMPLER: That's all right.  
10                  (Tom Fulmer confers with Benny Wampler.)  
11                  BENNY WAMPLER: Okay. Would you clarify the...what  
12 you intend to escrow on the Exhibit B?  
13                  JIM KISER: On a conventional side?  
14                  (No audible response.)  
15                  JIM KISER: Just the unknowns or unlocateables.  
16                  TOM FULMER: Then that gives rise to the question as  
17 being that you've got some listed here as known then, some of  
18 the heirship.  
19                  JIM KISER: Uh-huh.  
20                  TOM FULMER: You listed here---.  
21                  JIM KISER: Are known?  
22                  TOM FULMER: ---as known. So, are you asking for  
23 the whole tract to be escrowed or just---?  
24

1           DENNIS R. BAKER: The known interest would be...they  
2 would be receiving their share.

3           TOM FULMER: Okay.

4           JIM KISER: Yeah, we will parcel it out in the  
5 supplemental order.

6           TOM FULMER: See, some of it's part of the tract.

7           JIM KISER: Right.

8           TOM FULMER: So, we are getting into the  
9 subdivisions of tracts now.

10          JIM KISER: Right. We parcel that out in the  
11 supplemental order.

12          BENNY WAMPLER: But just the unknowns and  
13 unlocateables.

14          JIM KISER: Right.

15          BENNY WAMPLER: Okay. Any further questions? I  
16 have a motion?

17          DENNIS GARBIS: I second.

18          BENNY WAMPLER: Motion and second. Any further  
19 discussion?

20          (No audible response.)

21          BENNY WAMPLER: All in favor, signify by saying  
22 yes.

23          (All members signify by yes.)

24

1           BENNY WAMPLER: Opposed, say no.

2           (No audible response.)

3           BENNY WAMPLER: Unanimous approval. Thank you very  
4 much.

5           JIM KISER: Thank you.

6           BENNY WAMPLER: We will now return to the agenda  
7 item as listed as number two on the Board's Pocahontas Gas  
8 Partnership.

9           MARK SWARTZ: We were unable to get the waiver, Mr.  
10 Chairman. We are going need a continuance to next month in  
11 regards to the Pepsico respondent.

12           BENNY WAMPLER: Okay. It shall be continued until  
13 September. That is docket number VGOB-91-11/19-0161-01.

14           And the final item on the agenda...Cheryl, I guess  
15 we will ask you to maybe move around, if that's okay. The  
16 Gas and Oil Board, on its own motion, will consider whether  
17 it will initiate rule making in compliance with a procedure  
18 set forth in the Department of Mines, Minerals and Energy  
19 public participation guidelines regarding procedures,  
20 reporting, and/or accounting to be made applicable to the  
21 unit operator's deposits of funds into the escrow account  
22 established by the Board to receive those funds specified in  
23 Virginia Code Section 361.21.D, 361.22.A.2, 361.22.A.3 and

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1 361.22.A.4, and the disbursement of funds from said escrow  
2 accounts in accordance with the Virginia...with the  
3 requirements of Virginia Code 361.21.D and 361.22.A.5. Also,  
4 to whether we should amend 4 VAC 25-160-30.A to establish a  
5 new date for the Board's regular monthly meetings. And I'd  
6 ask Cheryl just basically to give us a refresher on moving  
7 into the regulations and development phase.

8           CHERYL CASHMAN: There are several things that you  
9 all as a Board, and us as an agency in providing staff to  
10 that Board, have to work under when you promulgate  
11 regulations. One is Executive orders that are issued by the  
12 Governor, one is the APA and then as well as our public  
13 participation guidelines. So, I went through and just sort  
14 of tried to do them out in steps.

15           The first step would be for the Board to decide  
16 that they wanted to initiate the regulatory process. If the  
17 Board chooses to do that, then we would have to go through  
18 and start the prenora, which would be the first step in  
19 submitting to the Secretary's office and to the Department of  
20 Planning and Budget. The prenora is basically saying we want  
21 to initiate a regulatory action. We have to identify the  
22 legal authority, statement outlining the potential issues  
23 that would be addressed, and a statement as to why the Board

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1 concluded that the regulation is essential to protect the  
2 health, safety or welfare of the citizens, or for the  
3 efficient and economical performance of an important  
4 governmental function, and a statement describing the process  
5 by which the Board considered or will consider less  
6 burdensome and least intrusive alternatives for achieving  
7 that purpose. Under the new Executive Order number twenty-  
8 five that Governor Gilmore issued, one of the things that we  
9 would have to do in nora is state the reasoning for this, why  
10 it is essential. We...if it's not listed in the nora, we  
11 cannot address any proposed regulation or the final  
12 regulation. So, if we decide to move forward, we would need  
13 to keep that in mind when we...we would need a motion for us  
14 to move forward.

15           From the preliminary determination package, the  
16 nora would be published. That would open a thirty (30) day  
17 public comment period. All of the things that I had  
18 mentioned would also be published as well as the beginning  
19 and ending dates for the nora, the location of a public  
20 meeting if we choice to have it.

21           From there, we would go through and start  
22 developing the proposed regulatory package. We would set up  
23 a work committee that would come up with a...the proposed

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1 language. I think Tom is going talk more about the work  
2 committee. Once we come up with a proposed package, again,  
3 it would...the committee's work would be brought back before  
4 the Board for a review and approval before we moved forward.  
5 Pretty much all of the information that's in...included with  
6 the nora as well as summary of public comments; again, why  
7 the Board determined that the regulation is essential to  
8 protect the public health, how they consider it less  
9 burdensome and less intrusive alternatives and the projected  
10 cost for an economic impact analysis that would be done.  
11 Once that has been approved, then from the Secretary's office  
12 and Planning and Budget, we would go through with the  
13 publication for proposed regulation which would kick off a  
14 sixty (60) day public comment period, at which time a public  
15 hearing would be held to receive the public comments. Staff  
16 would go through and do a response document for the public  
17 comments and bring them back for the Board's review and  
18 approval. The final regulatory package would be...would be  
19 developed and then submitted for publication. The regulation  
20 would then become effective thirty (30) days after it was  
21 published. The process takes---.

22 BENNY WAMPLER: About a year.

23 CHERYL CASHMAN: ---better...little better than a

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1 year.

2                   BENNY WAMPLER: Any questions of Cheryl? Of  
3 course, nora is a notice of intent for regulatory actions and  
4 that's all published and everything laid out for people to  
5 have an opportunity to come.

6                   MASON BRENT: I don't have any questions for her,  
7 but I hope we are going to discuss---.

8                   BENNY WAMPLER: Sure.

9                   MASON BRENT: ---again why we...why we want to do  
10 this.

11                   BENNY WAMPLER: We sure can.

12                   DENNIS GARBIS: There is no doubt in my mind what we  
13 need to do.

14                   BENNY WAMPLER: Yeah, we need to have a regulation.

15                   DENNIS GARBIS: Yes, we do.

16                   MASON BRENT: Can you review for me the reasons why  
17 we need that, just for my own edification?

18                   DENNIS GARBIS: Well, that was based on the...based  
19 on the last case where we had the amounts escrowed. Who was  
20 esrowing the delineation of what parts of the---. Now, to be  
21 honest with you, my memory fails me now. But I think there  
22 was enough cause for concern at the time that I don't think  
23 that there was enough, perhaps, diligence on the part of the  
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1 operators to sufficiently satisfy my sense that there  
2 was...well, look at that one case that was presented. I  
3 mean, look at the box of stuff that we got. I mean, how  
4 would you decipher that? How are you going to be able to  
5 convince yourself that the people's interest are well taken  
6 care of?

7           BENNY WAMPLER: You know, and I guess the only  
8 thing, we have...we have operators here in the room and  
9 public members here in the room and certainly...I mean, this  
10 is a board hearing where we do have those kinds of  
11 discussions. In some cases it may...it may benefit the  
12 operator to have more guidance on what's expected of the  
13 Board. I don't know. We certainly can hear from them. But  
14 there is obviously some inconsistency on how records are  
15 being kept and I don't think that there is anything there  
16 that's intentional. It's just different companies keep  
17 records different ways and I think, you know, as long as, you  
18 know, we either have to accept that part of it or we set out  
19 some guidance on the way the Board expects funds to move into  
20 and out of escrow. We are at a point where it's time to make  
21 that kind of decision whether or not---.

22           DENNIS GARBIS: Yeah.

23           BENNY WAMPLER: ---we feel like that there needs to

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1 be additional guidance, and to do such guidance, it requires  
2 as an agency to the Commonwealth to enforce and implement, we  
3 have to have regulations to be able to do that. Obvious---.

4 MASON BRENT: And one of the reasons I ask is to  
5 give these operators the opportunity to join on this  
6 discussion if they...if they so desire.

7 CLYDE KING: Everybody needs to be on the same  
8 playing field, it seems to me from what I read of the  
9 discussion at the last meeting.

10 MASON BRENT: And we say...Cheryl, this is for you,  
11 I guess. We say we have to make certain that we have  
12 considered other avenues that are less intrusive, less  
13 costly, whatever you said, is that with regard to coming  
14 forward with this regulation, or coming forward with a  
15 regulation in itself that's less intrusive and less  
16 expensive?

17 CHERYL CASHMAN: I think it's more of the former.

18 MASON BRENT: Former.

19 CHERYL CASHMAN: But certainly, one of the other  
20 requirements is that we have to insure that the regulations  
21 are easy to read and easy to understand. But for the  
22 beginning, the up-front end of it, is to see if there is any  
23 way it could be done without a regulation.

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1           BENNY WAMPLER: Right. The whole intent is to  
2 see...can you implement something without having to have  
3 rules and regulations? Can it be done any other way?  
4           MASON BRENT: And can we say one way or the other,  
5 as a Board, what's the case there? I mean, can we say there  
6 is no other way?  
7           DENNIS GARBIS: Well, we would have to look at the  
8 alternatives. I mean, you would have to have a bunch of  
9 people sit down and think of a couple of different options.  
10 First, before that, you really have to clearly define what  
11 the problem is, because if you don't find what the problem  
12 is, then you...you're going to be chasing your...you will be  
13 going in circles. You can't get an answer.  
14           MASON BRENT: Well, I'm just trying to figure out  
15 where we are.  
16           BENNY WAMPLER: Right.  
17           TOM FULMER: Can I---?  
18           MASON BRENT: If we are going to sit here today and  
19 vote on moving forward with this new regulation, I want to  
20 make sure that we have complied with what you've laid out  
21 here and that is, have we considered other avenues? Well, I  
22 have not. I mean, you guys...you may have, but I have not.  
23           TOM FULMER: One of the...just as I guess I've been  
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1 here from ground one, as Benny has, but one of the...one of  
2 the things that we are into in regards to the recent cases  
3 that has brought this basically to light, is that the law and  
4 regulations address that if you did have conflicting claims  
5 and those conflicting claims are going to be addressed by the  
6 court eventually if a party came forth. In this case we got  
7 parties that's come forth with an agreement. So, we are not  
8 involved the court situation. And then they are asking the  
9 Board to disburse funds based upon some type of testimony, or  
10 some type of accounting purposes, to disburse those funds.  
11 So, we don't have a judge sitting up there and saying, you  
12 will do this and this is what you are going to get and we  
13 don't have any procedures common to the Board to address  
14 these cases. I mean, as far as...just for your edification,  
15 is where we are at in this regard.

16 BENNY WAMPLER: Let me go back and revisit one  
17 thing, and it's not to encourage us to move in any form or  
18 fashion here. I just want to make sure we are clear on one  
19 thing what Cheryl said. To have the notice of intent of  
20 regulatory action is just that. It's a notice and we are  
21 looking at it. It does not mean that during that process, we  
22 can't find a better solution than a regulation and ideally  
23 you would, during the process, find a better solution than

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1 regulation that you would be able to document that you could  
2 do. It's just understood that as an agency and the Board  
3 operating to implement these regulations and the department  
4 having to carry those out, we can't...we have to...we have to  
5 have regulation if we are going to require something so to  
6 speak. You can't just say go forth and do it this way from  
7 now on and evict from our current seats.

8 MASON BRENT: So, we don't really have to address  
9 these questions prior to the nora?

10 BENNY WAMPLER: Not prior to the Nora---.

11 MASON BRENT: We can address them---.

12 BENNY WAMPLER: ---prior to the regulation. Prior  
13 to any regulation.

14 MASON BRENT: Not prior to the nora.

15 CLYDE KING: When were the regulations that we are  
16 operating under written?

17 CHERYL CASHMAN: The Gas and Oil Board Regulation?

18 (No audible response.)

19 CHERYL CASHMAN: I believe the first one was in  
20 1991. It became...we amended it again and it became  
21 effective on August 20th, 1997.

22 BENNY WAMPLER: '97.

23 CHERYL CASHMAN: Just last summer.

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1                   CLAUDE MORGAN: Mr. Chairman, could I make a  
2 suggestion?

3                   BENNY WAMPLER: Mr. Morgan.

4                   CLAUDE MORGAN: If there is some differences, and I  
5 know there are differences in the way different companies  
6 handle, there are differences in the two companies that we  
7 represent as operators handling royalty payments under  
8 escrowing, so on like that. Can I suggest that before we  
9 enter into any rule making exercise, that perhaps an informal  
10 group, representatives from the operators, a representative  
11 from the escrow agent, and a representative from this Board  
12 sit down and discuss what the problems are, what needs cured  
13 and is it something that needs regulation or is it something  
14 that we can just take care of while the procedure is going  
15 forward without a ruling making necessary? I would be glad  
16 to participate in that sort of meeting and I'm sure...I can't  
17 speak for Equitable, but I'm sure some people from Equitable  
18 would, and could we possibly get into the thing a little bit  
19 and see what the problems are and see if the problems can be  
20 cured. And I think it does involve the escrow agent as well  
21 as the operators as to what record keeping their escrow agent  
22 has and that ties to the record keeping that we may have and  
23 that sort of thing, and then we could come back before the

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1 Board with what we've got and make some recommendations to  
2 the Board as to whether or not we can go forward with rule  
3 making.

4           MASON BRENT: Just a comment, I always prefer that  
5 approach. The one concern I would have is, is it...is it  
6 going to be "enforceable enough", and Consol and Equitable  
7 may agree that, yeah, and the Board, yeah, this is the way we  
8 want to do it. But what happens when...I'm just making up  
9 stuff, suppose Cabot comes in and they say, well, nah, you  
10 know, we are going to do it our way, how are you going to  
11 stop us? Can...are we going to be able to get, you know,  
12 representation from everybody on this committee so that  
13 everybody that is going come before this Board has agreed to  
14 that? You know, I would like to think...I'd like to say,  
15 yeah...the answer is yeah, but I don't.

16           BENNY WAMPLER: Mr. Mason.

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18           GEORGE MASON: All right. George Mason on behalf of  
19 Equitable Resources Energy Company. Let me just approach the  
20 Board. I like the idea of having some type of informal  
21 working group that work under the auspices of Virginia Gas  
22 and Oil Board and maybe we can come up with something outside  
23 of the notice of proposed rule making where we can say, this

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1 ideally is probably the way that you could handle it as far  
2 as the deposits of escrow accounts, and how you withdraw it  
3 and how you come before the Board prior to having an actual  
4 rulemaking, which you would have to have like you did for the  
5 last...with the regulations for the Gas and Oil Act and also  
6 the Board, you would have to bring in an Citizens Group or  
7 what have you. Maybe we can have a workable game plan  
8 available for that, you know, already and say this is what  
9 we've gotten and to gather as operators is what we think is  
10 the best way to do it, but it hasn't...it doesn't have the  
11 force and affect of any regulation, but at least we have  
12 voluntarily come together and said this what we think that we  
13 can do. Now, there is...the only problem I look at as a  
14 regulation, is how long it will take? Will it...will we  
15 accomplish this during this administration or the next  
16 administration? You know, going through and writing and re-  
17 writing regulations is just taking a lot longer than I ever  
18 suspected when we first started out and I was president of  
19 the Virginia Oil and Gas Association over four (4) years ago,  
20 you are talking about, you know going through...starting this  
21 process.

22 MASON BRENT: It's costly for everybody involved---.

23 GEORGE MASON: It is.

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1                   MASON BRENT: ---including the tax payers.

2                   GEORGE MASON: Yes, it is. But maybe the first step  
3 is where the operators get together under some type of  
4 structure and say this is how we think is the best way as far  
5 escrow procedures or what have you. That doesn't mean that  
6 it has a purview or what have you for the endorsement, you  
7 know, for the Commonwealth but at least maybe, there's a game  
8 plan that said look...a workable, logical way...common sense  
9 way to handle that and then we can present that once there is  
10 actually a formal rule making.

11                  MASON BRENT: That...you know, that brings me back  
12 to my question earlier. What do we do as a Board when  
13 someone...some other producer comes here and says, well, you  
14 know, there is no regulation on that. I'm going to do it the  
15 way I always account things. To heck with what you all think  
16 is the right way to do it.

17                  BENNY WAMPLER: Mr. Garbis.

18                  DENNIS GARBIS: I think I'm in agreement with that  
19 approach. I think I'm in agreement with that approach. I  
20 think you guys are the experts. You deal with it on a daily  
21 basis. You know your business. I'm expecting a high degree  
22 of integrity there to make sure that all the bases are  
23 covered and everybody is going to be straight up and I think

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1 that we ought to give you guys...in my opinion, I think we  
2 ought to give them first shot at it. There has to be a  
3 finite amount of time. I don't want this to be an open ended  
4 thing and about a year from now, we are still looking for  
5 some report from you guys. That is not going to cut it. But  
6 I think that I would be in favor of letting them have first  
7 crack at it and I have...I trust the confidence of Mr. Morgan  
8 that he would be able to get everybody...we should make it as  
9 inclusive as possible to try to get the other operators...I  
10 know you guys are the big players, but try to get everybody  
11 involved in it and have them come back to us and we will take  
12 a look at it and then if it doesn't...doesn't appear to meet  
13 the criteria, then we will go on. And I think that would...I  
14 don't think that is lost because that would feed right into  
15 where we need to go...if you all had your shot at it and if  
16 you don't do it right, then you have nobody to blame but  
17 yourselves because we will do it. I mean, we are going get  
18 it...we are going...we are going try to get this thing right  
19 as we know how.

20                   GEORGE MASON: And there may need...may be a need  
21 for regulation just so that...actually what we do internally,  
22 all of us may have a different type of accounting procedures,  
23 but actually what we will bring to the Board and say this is

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1 how it should be disbursed, this is how it is accounted for,  
2 it may be that everybody has to have a same cookie cutter  
3 approach and provide the operator with a safe harbor that he  
4 has done this in accordance with the regulations of the Board  
5 and therefore, you know, five (5) years from now he doesn't  
6 come under attack, well, why did you do this way? Well, we  
7 did it, you know, in compliance with the regulations that was  
8 set up by the Board.

9           DENNIS GARBIS: I'm not...to be honest with you, I'm  
10 not too worried about, you know, somebody...you know, another  
11 operator not complying because I think by, you know, the fact  
12 that everybody will be using the one system, it will be  
13 recognized this is the way we will be operating. I think  
14 pretty much everybody will fall in line. The question is  
15 always somebody is going to be on...want to be a little  
16 rebellious, but we can deal with that.

17           MASON BRENT: Let me see if I understand what you  
18 are saying. You are saying as a group of producers and  
19 representatives from various other places come up with the  
20 procedure and then promulgate a regulation.

21           GEORGE MASON: Well, it could be a procedure...what  
22 you are looking at is if there is an informal procedure where  
23 the operators get together and say this is the best...we have

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1 pooled our resources and this is the best way we have all  
2 agreed as to this type of procedure. Well, that had..carries  
3 no force and affect of law or regulation or what have you.  
4 Then the Board would have to determine, all right, this is  
5 how they are going to do it. Should we go ahead and have  
6 this committed to a regulation and probably, you know, that  
7 may happen that next step, and say let's go ahead and  
8 formalize this. It's formal. The operators have agreed this  
9 is how to handle it. Let's go ahead and have...have it  
10 formalized. In that case, we'd have to go through the same  
11 regulatory process if you did it for the Board regulations  
12 and the Gas and Oil Regulations.

13 CLAUDE MORGAN: It may be that whatever...whatever  
14 we come up with, may or may not require regulation. It may  
15 something that can simply be incorporated into the orders as  
16 they are issued (inaudible).

17 JIM KISER: The question is how you would enforce  
18 it. You can't enforce through the Board order versus  
19 regulation. Maybe that's...I think that was your question.

20 MASON BRENT: Yeah. So, can you indeed enforce it  
21 through a Board order?

22 BENNY WAMPLER: Enforceable Board order, yeah.

23 CLYDE KING: That's just as...is that just  
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1 enforceable as a regulation, isn't it?

2           GEORGE MASON: It...I would think so---.

3           CHERYL CASHMAN: Through the Board's powers.

4           GEORGE MASON: ---if the Board order is properly

5 done within the regulations and the statute---.

6           BENNY WAMPLER: Right.

7           CLYDE KING: It should be.

8           GEORGE MASON: ---and it has the same force and

9 affect and I'm looking at it from the perspective that, you

10 know, as long as it is not costly, time consuming or what

11 have you, that maybe it's something that we can agree to and

12 have it pursuant to the Board order, you know, gives us

13 protection of what we are doing is properly been approved.

14           DENNIS GARBIS: I agree.

15           CLYDE KING: Yeah.

16           BENNY WAMPLER: I think, you know, just in open

17 discussion here, we're going to have to be careful as the

18 Board and as a department. It may be better that the

19 operators get together and make that proposal and we look at

20 it together. It's not to say we are close door or anything,

21 but just to be cautious about having performed outside our

22 responsibilities under the...under the notice requirements

23 and everything else and the involvement of other...you know,

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1 pretty structured in that manner and how we...how we can  
2 function, if in fact I'm saying, if the Board says this is a  
3 good plan, we were going to participate in it. You are  
4 almost compelled to broaden the playing field to...and we  
5 have to announce every meeting and things like that. And  
6 what I'm hearing them say, they would like to informally get  
7 together and make a proposal to us. I'm just trying to  
8 define this and we take a look at it whether or not we  
9 believe that would accomplish the same thing absent us  
10 getting into this formal process. Does that make sense?  
11 That's not to shut---

12 CLAUDE MORGAN: The only thing---

13 BENNY WAMPLER: ---off from any consultation or  
14 anything like that.

15 CLAUDE MORGAN: The only thing that I think that  
16 is...that would be missing from it in the meetings with, say  
17 just the operators, is the escrow agent's participation in as  
18 to what sort of record keeping they are doing and what they  
19 are maintaining and what can be tracked there.

20 BENNY WAMPLER: Well, from time to time, I mean, to  
21 keep points, I don't have any problem asking the escrow agent  
22 unless the Board does, I...presuming what they are doing and  
23 having that kind of discussing. Do you all see that?

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1           GEORGE MASON: What about someone either from the  
2 Board or from the Department...the only problem that I am  
3 wondering about having it informal is, do we come up with  
4 answer that misses your question? You know, exactly that we  
5 come back with something that you are looking for and it may  
6 not be...it may be someone from the Board or the department  
7 on a voluntary basis besides the escrow agent to meet with  
8 the operators and say this is the exact way we need it.

9           MASON BRENT: Is there any way we can establish---.

10           (Cheryl Cashman confers with Benny Wampler.)

11           MASON BRENT: Is there any way we can establish  
12 appropriate communication between Sandra Riggs and this  
13 people, or is there no way to establish appropriate  
14 communication?

15           BENNY WAMPLER: You know, we are guided by the  
16 administrative process act and it is pretty explicit about  
17 taking on these kinds of developments and Sandra is no  
18 different than any of the rest of us. You know, if they have  
19 a meeting and they are at the critical stage, and they would  
20 like to make a presentation on where they are and get some  
21 feedback from the department, we meet all the time with  
22 people from that standpoint. But to sit in the meetings to  
23 participate, I think we'd have problems. I mean, I

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1 think...I'm subject to have that reviewed, but I think that  
2 that would be APA glitch that would have to get resolved.

3 MASON BRENT: Well, any...I don't want us to do  
4 anything that, you know, any questions about.

5 BENNY WAMPLER: I...I understand that. I understand  
6 that.

7 MASON BRENT: But---.

8 BENNY WAMPLER: And I don't want to have a question  
9 if it's...you know, if I'm having an unnecessary question.  
10 I'm just urging caution as we move into this. I think it  
11 would be great if they can get together and make a proposal  
12 that's acceptable and come to the Board. I have no problem  
13 with that at all and it meets our intent and we can do by  
14 incorporation into a Board order, I think that would be  
15 super. The last thing I've ever enforced is more  
16 regulations.

17 MASON BRENT: Right. But to get back to Mr. Mason's  
18 question, during their deliberations, is there anything to  
19 preclude them from, say, calling Mrs. Riggs and saying hey,  
20 we have a question about this. You know, can you...she not  
21 be in their meeting, but they call...as you said, you know,  
22 as a department, you get questions all the time---?

23 BENNY WAMPLER: Right.

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1           MASON BRENT: ---is it inappropriate for them to  
2 call her as part of their deliberations just to seek an  
3 answer to a question or information?

4           BENNY WAMPLER: I think as long as it is  
5 clarification or something of a rule and reg or anything that  
6 we're...you know, a Board order or how this might be done, I  
7 think that's fine. That's what I'm suggesting with any of  
8 us. I think we do that all the time with parties when they  
9 have that kind of situation come up.

10          CLAUDE MORGAN: I think...I think there is some  
11 need. I think that is what the George was referring to is  
12 there is some need to...when we start our discussions to  
13 understand exactly what the problems are that need addressed.

14          BENNY WAMPLER: Yeah, you have to define the problem  
15 to fix it, that's for sure.

16          MASON BRENT: I think all you have to do is go back  
17 and read some transcripts of our previous meetings and it  
18 will become pretty clear.

19          TOM FULMER: Well, there's one other thing that was  
20 mentioned here that...I think Claude mentioned, was involving  
21 the escrow agent. Again, the escrow agent is hired by the  
22 State as an escrow agent. So, he can't...if he is involved  
23 in these meetings, I would not assume that he could

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1 participate on behalf of the Board. He would have to do it  
2 voluntarily.

3 BENNY WAMPLER: The way I understood Claude was to  
4 explain the procedures of how---.

5 CLAUDE MORGAN: Explain what their procedures are  
6 and what their record keeping is and what they can...  
7 essentially what they can handle that we feed them.

8 JIM KISER: And informational role, not a policy  
9 role.

10 CLAUDE MORGAN: Right.

11 BENNY WAMPLER: Right.

12 TOM FULMER: I'd hope so.

13 JIM KISER: Huh?

14 TOM FULMER: I'd hope so.

15 BENNY WAMPLER: Yeah, I don't...and I said I don't  
16 have a problem, you know, with them in that realm.

17 MASON BRENT: So, can we as a Board be comfortable  
18 with that approach, you think, Mr. Chairman?

19 BENNY WAMPLER: I think...I think we can as long as  
20 we...everybody understands...you know, I'm not trying to be  
21 bureaucratic about it, but I am trying to be APA cautious,  
22 but you know we...when we are trying to avoid, or seeing if  
23 there is a way to avoid ruling making, and accomplish the  
24

1 same thing, we have to be super cautious that we're  
2 not...that were not playing around the APA guidelines and  
3 finding a way to get there without...without going through  
4 the regulation. We just can't do that. We have to stay  
5 arm's length away from those kinds of things. But as long as  
6 the Board wants to give the folks an opportunity that are in  
7 the business of dealing with these funds day in and day out  
8 and proposing to the Board and accept...a method that is  
9 recommend...is acceptable and meets all the requirements of  
10 all law and regulation, I think that's perfectly acceptable,  
11 and we have every opportunity to defer initiation of the  
12 notice of intended regulatory action until such time as we  
13 feel like we are ready to go forward.

14 CLYDE KING: It wouldn't hurt to try.

15 BENNY WAMPLER: Cheryl?

16 CHERYL CASHMAN: One of...one of my concerns with it  
17 is the intent behind the APA in a public participation  
18 guidelines and everything is make sure that...that everybody  
19 has input. You don't leave anybody out or miss anybody and  
20 you know, being the staff or trying to provide some backup to  
21 the Board and hey, I'm the first one to say I don't want to  
22 see another regulation, but that is the whole process behind  
23 it. In just sitting here and, you know, thinking oh, gosh

24

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1 what are we going to do if somebody says, well, I don't like  
2 the way I get my money. You know, I don't like the way I got  
3 my funds or, you know, are we leaving out segments with the  
4 APA. So, I mean, that's just...it's something to be  
5 concerned about and to keep in mind.

6 BENNY WAMPLER: Of course, in---.

7 DENNIS GARBIS: I just read through the  
8 transcript...just browsed through it again and there was  
9 some...we have some problems here. I think they need to be  
10 addressed. I think there are some problems on the part of  
11 the operators and I think we have some fiduciary  
12 responsibilities and I...it's the sort of thing...it's just  
13 not going to happen overnight. You guys need to start  
14 getting your act together, based again on what we saw from  
15 the last meeting, and we have to make sure that we do what we  
16 are supposed to do, and I have no problem with Claude's  
17 suggestion that we start out...at least give them the first  
18 cut at it, and that would not preclude us from doing other  
19 additional things, if required. So, let's start working on  
20 it and getting some answers.

21 MASON BRENT: Well, let's pursue Cheryl's concern  
22 there. Let's...hypothetically, let's say that these  
23 guys...the producers come up with a way of accounting for  
24

1 this and they come before the Board with this way...this  
2 procedure...proposed procedure---.

3 BENNY WAMPLER: That would go on the docket.

4 MASON BRENT: Yeah, that would go on the docket.

5 JIM KISER: With a published notice.

6 BENNY WAMPLER: Be public...and published to the  
7 Board on its own motion and bring the stuff on forward.

8 MASON BRENT: Okay. So, the public has an  
9 opportunity to come and participate in our discussions over  
10 that proposed procedures, is that right?

11 BENNY WAMPLER: That's right, yes.

12 MASON BRENT: And then if we decide as a Board that  
13 we think that procedure is good and will be effective, then  
14 we as a Board approve by order that procedure to be followed  
15 in future---?

16 BENNY WAMPLER: Approve the form of a Board order  
17 which would have to---.

18 CHERYL CASHMAN: And I think it would have to be the  
19 Board order itself.

20 BENNY WAMPLER: Yeah.

21 MASON BRENT: That's what I'm saying.

22 BENNY WAMPLER: But yeah, that's the way it would  
23 have to be. It would have to be---.

24

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1           MASON BRENT: That's what I'm saying.

2           CHERYL CASHMAN: Right, yeah. It need..each one  
3 would have to be separate.

4           BENNY WAMPLER: It would have to be something that  
5 you would want to refer to and incorporate by reference, or  
6 however, be incorporated into a Board order. If it went  
7 outside of that, that's to say this is how we want the  
8 requirements to be. We write in a notice of---.

9           MASON BRENT: Yeah.

10          BENNY WAMPLER: And it may be a notice of intended  
11 regulatory action and go through the process. Perhaps a  
12 stepped up process, but you go through...nevertheless, you go  
13 through the process.

14          MASON BRENT: But back to the first scenario where  
15 it's just by Board order. Then, in the future if anybody  
16 comes...anybody says well, I don't like the way it is done,  
17 well, they had an opportunity to speak up at the hearing when  
18 we were discussing this procedure and came forward with an  
19 order. Is that---?

20          BENNY WAMPLER: Just as we have today.

21          MASON BRENT: Right.

22          BENNY WAMPLER: It was listed as a docket item. The  
23 public had an opportunity to be here and speak.

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1                   MASON BRENT: Does that work, Cheryl, from your  
2 standpoint?

3                   CHERYL CASHMAN: I think it...as long as it is clear  
4 that it would be a order and a Board order is enforceable by  
5 the Board. One of the other things...not so much with some  
6 of the regs I've dealt with here, but in other agencies and  
7 this is...nobody will show up. You won't get any comments on  
8 the notice of intent of regulatory action. People just won't  
9 participate until a reg is lying there and they don't like  
10 the reg and then...and if that happens in this case...if we  
11 can work it through the Board order, I'm not sure where  
12 that's going to put us, though.

13                  BENNY WAMPLER: It's not really any different than  
14 it is with a regulation where they don't show up.

15                  CHERYL CASHMAN: Yeah.

16                  BENNY WAMPLER; You know, if you've been through the  
17 process and afford---

18                  JIM KISER: As long as you afforded them proper due  
19 process which---

20                  TOM FULMER: One of the things that can happen that  
21 you did do the notice of intent is that you would have your  
22 work task force and one of the things they can come back and  
23 recommend is no change to the regulation at all. I mean,

24

--

1 that can happen.

2 BENNY WAMPLER: Right. That we---.

3 TOM FULMER: There's no...there's nothing to force  
4 you. The only thing the nora does is just we intend to look  
5 at this.

6 CLYDE KING: But a Board order is enforceable?

7 BENNY WAMPLER: Yes, it is. As long as it's in  
8 compliance with the law and regulations.

9 DENNIS GARBIS: That's not too say that in the  
10 future if we see that things aren't proceeding the way---.

11 CLYDE KING: Change the Board order.

12 DENNIS GARBIS: ---then we change the Board order or  
13 then we go right back in the process.

14 BENNY WAMPLER: You're not precluded in that---.

15 DENNIS GARBIS: Sure.

16 BENNY WAMPLER: ---from changing any of the regs at  
17 any time.

18 CLYDE KING: It sounds a lot simpler to me.

19 BENNY WAMPLER: Now, the only thing there is that  
20 deals with phase one of what we've talked about today. The  
21 only one we have...we can't deal with that way is the Board  
22 meeting date. It is in regulation now. We would have to  
23 formally get into a notice of intended regulatory action to  
24

1 change the date.

2 DENNIS GARBIS: What is wrong with our meeting date?

3 BENNY WAMPLER: We had a request to change the

4 meeting date.

5 DENNIS GARBIS: What...for what reason? I'm not

6 aware. I mean, is there a problem with that. Somebody---.

7 CLYDE KING: Oh, I made...I made---.

8 BENNY WAMPLER: Mr. King.

9 CLYDE KING: Yes. I asked Benny if we could discuss

10 it. I have a problem that I can't attend every other meeting

11 and we have a lot...real problem with getting a quorum and I

12 just asked Benny if there was any way we could maybe change

13 the meeting date to different day rather than the third

14 Tuesday.

15 BENNY WAMPLER: And it is in regulation and we would

16 have to go through that...that process.

17 CLYDE KING: I certainly don't want to impose my

18 problem on everybody, but---.

19 DENNIS GARBIS: I think that's what you would be

20 doing.

21 MASON BRENT: I've said---.

22 CLYDE KING: If it was a problem, then we would just

23 leave it like it is. But---.

24

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1           MASON BRENT: I've said before there is no date  
2 that's any less inconvenient than another for me. So---.

3           DENNIS GARBIS: That's right.

4           MASON BRENT: Changing is fine.

5           CLYDE KING: I just hate to see all of these people  
6 come to a meeting sometime and not get a quorum.

7           MASON BRENT: So, do we want to vote to move forward  
8 with a nora for changing the meeting date? Is that what is  
9 required?

10          BENNY WAMPLER: That's what we would have to have as  
11 a department if we move forward with that. Is---.

12          DENNIS GARBIS: What about...are we finished with  
13 number one? Did we come to a decision on that? Are we  
14 agreed what we are going do?

15          MASON BRENT: I don't think so.

16          CHERYL CASHMAN: We can run that also by Sandy for  
17 the first one.

18          BENNY WAMPLER: I'm sorry.

19          CHERYL CASHMAN: We could run that by Sandy also for  
20 the first one.

21          BENNY WAMPLER: After we decided. You see what she  
22 thinks after we decide it. She had an opportunity to be  
23 here.

24

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1           MASON BRENT: Is there any way that we can...is  
2 there any way that we can continue item number one for sixty  
3 (60) days or ninety (90) days or whatever---.  
4           BENNY WAMPLER: Sure. We can continue---.  
5           MASON BRENT: ---until such time as there is some  
6 input.  
7           BENNY WAMPLER: We can continue the item...the  
8 agenda item at the Board...for further...you know, for  
9 further considerations.  
10          MASON BRENT: We could reconsider moving forward  
11 with a nora at that date in light of whatever input anybody  
12 else may have.  
13          DENNIS GARBIS: Yeah, how much time do you think you  
14 will need to get...to do what you need to do?  
15          GEORGE MASON: Are you talking about coming back  
16 before the Board before the end of the year?  
17          BENNY WAMPLER: Give them ninety (90)  
18 days...November?  
19          MASON BRENT: That would be fine with me.  
20          CLYDE KING: Wouldn't be any problems with them just  
21 coming back and saying, this is what we would like to say.  
22          BENNY WAMPLER: Continuing these items till  
23 November?  
24

1           DENNIS GARBIS: Ninety (90) days?  
2           (Everyone confers on how many days.)  
3           GEORGE MASON: We will try to have a report for the  
4 Board for its November hearing.  
5           DENNIS GARBIS: Can you do that in sixty (60) days?  
6           GEORGE MASON: Well, we probably could, but---.  
7           JIM KISER: Are you going to put it...whatever time  
8 we select, or the producer selects, you are going to put it  
9 on your own motion on the regular docket for that? I would  
10 suggest you do it in November rather than October for the  
11 public because October is going to be over at the Breaks and  
12 for no other reason do for them. This has got to be a more  
13 convenient location for the majority of people who would want  
14 to participate than up there.  
15           CLYDE KING: Sixty (60) days would be...seems to me  
16 like that would long enough.  
17           JIM KISER: But that puts us in the October hearing  
18 which is at the Breaks Interstate Park.  
19           DENNIS GARBIS: You don't like the Breaks Interstate  
20 Park?  
21           JIM KISER: Oh, I don't say...no, don't get me  
22 wrong. It's a beautiful place. I'm just saying I don't  
23 think it's very accessible for the general public. I don't  
24

1 like driving over there personally. I mean, that's in the  
2 middle of nowhere.

3 MARK SWARTZ: My problem with that is every time I  
4 go there, there is some natural disaster with one of the  
5 pooling applications. I've never had fun at the Breaks.  
6 I've tried, it's just company that...so, I disagree with you.  
7 I think it attracts an element that I would rather avoid.  
8 Let's have---.

9 JIM KISER: So, you agree with me.

10 MARK SWARTZ: Yeah, for different reasons.

11 JIM KISER: For different reasons.

12 DENNIS GARBIS: There's always a comedian out there,  
13 you know?

14 CLYDE KING: While we are up there, there is nothing  
15 else to do though, but meet.

16 JIM KISER: Well, I mean, if your concerns are the  
17 full participation and due process, then it seems to me you  
18 have to select a site where you are going to be able to  
19 accomplish that.

20 DENNIS GARBIS: I think Jim is right. Give them  
21 ninety (90) days.

22 BENNY WAMPLER: We will set it for the November  
23 hearing? Just go ahead re...move it to November.

24

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1           MASON BRENT: I would move...yeah. If we can  
2 separate one and two, I would move that we continue item  
3 number one until our November meeting---.

4           BENNY WAMPLER: Okay.

5           MASON BRENT: ---at which point we will consider  
6 moving forward with a nora in light of anything else that we  
7 hear.

8           BENNY WAMPLER: Okay. Is everybody in agreement  
9 with that?

10          DENNIS GARBIS: That's fine.

11          BENNY WAMPLER: All right.

12          CLYDE KING: Yeah.

13          DENNIS GARBIS: Do we need to make a formal motion  
14 to that?

15          MASON BRENT: I just did, I think.

16          BENNY WAMPLER: We did.

17          DENNIS GARBIS: Is that formal...well, I second that  
18 motion?

19          BENNY WAMPLER: Motion and second. Any further  
20 discussion?

21          (No audible response.)

22          BENNY WAMPLER: All in favor signify by saying yes.  
23          (All members signify by yes.)

24

1           BENNY WAMPLER: Opposed say no.  
2           (No audible response.)  
3           BENNY WAMPLER: It is continued till November. As  
4 to item two, any further discussion on that?  
5           DENNIS GARBIS: I'm like Mason, any...it doesn't  
6 matter.  
7           MASON BRENT: I don't care about what day it is, but  
8 I just hate to see us go through the cost of changing the  
9 regulation.  
10          DENNIS GARBIS: Yeah. Clyde, you are going to have  
11 to bite the bullet.  
12          TOM FULMER: Can I...can I just---.  
13          JIM KISER: If you pooled and asked the other  
14 members to see if they may be in Mr. King's situation and can  
15 change the date? So, in other words, you are not  
16 accomplishing anything.  
17          CLYDE KING: True.  
18          MASON BRENT: I've already told you my position.  
19          JIM KISER: Well, yeah.  
20          DENNIS GARBIS: Yeah, it is the same thing. I mean,  
21 there is...when you're busy, you're busy. It doesn't make  
22 any difference then what day of the week it is, Saturdays or  
23 Sundays included. You know you've got to go.

24

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1           JIM KISER: So, you may change it and pick up one  
2 person on a hundred percent basis, but you may loose somebody  
3 else because of the change dates. So, you are right back in  
4 the same situation.

5           GEORGE MASON: Yeah, it is my understanding Mr. King  
6 has got a regularly scheduled every other month, third  
7 Tuesday with another---.

8           BENNY WAMPLER: A direct conflict.

9           GEORGE MASON: ---administrative agency of the  
10 State---.

11          CLYDE KING: Right.

12          GEORGE MASON: ---of Virginia. So, in other words  
13 he is competing...you know, they're competing for his time on  
14 two Boards. This Board and another Board. So, that's  
15 why...I assume that's your concern.

16          CLYDE KING: That's my problem.

17          TOM FULMER: Just one comment about the day on  
18 Tuesday. That was something we did back in the '90's that  
19 was very essential for us as far as the Board goes. Tuesdays  
20 were picked...the third Tuesday specifically, was picked  
21 because if you go through the calendar, the third week...the  
22 third Tuesday is avoided of all holidays, election days, that  
23 is other than the week of Christmas and so forth. So, it

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1 uncomplicates everything to have it on the third Tuesday for  
2 everybody concerned. That's why the third Tuesday. It's not  
3 just somebody said well, let's just have it on the third  
4 Tuesday. There was some thought behind why we put it on  
5 Tuesday. Also, it doesn't prevent the Board from having  
6 a...any date any other time. It can name whatever time it  
7 wants to. That's also in the regulation. But it needed just  
8 reconsideration. I...me personally, whatever the Board  
9 wishes to do. I'm fine with it.

10 BENNY WAMPLER: Mr. Swartz?

11 MARK SWARTZ: Just to pick up on what Tom said. You  
12 could periodically, on the months that Mr. King has a  
13 problem, select some of those months during the course of the  
14 year and just have the meeting...say we are going to meet  
15 next month on Monday instead of Tuesday. You could just do  
16 that.

17 BENNY WAMPLER: Yeah, we've done that in the past.

18 MARK SWARTZ: I mean, you don't have to have a  
19 regulation. You don't have to spend all of this money, all  
20 of this time and we could...you could perhaps choose to  
21 accommodate him a couple of more months, you know, in a  
22 calendar year, which I think is important. He is a pretty  
23 regular member when he has got an opportunity to attend and I

24

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1 think the difference between a Monday and a Tuesday in the  
2 same week could be the difference. But, you know, it's your  
3 call.

4 (Benny Wampler confers with Clyde King.)

5 GEORGE MASON: Let me just speak...it is admirable  
6 that he...not to beat a dead horse, but it's more  
7 important...to my company, it is extremely important that  
8 there be escrowed...I don't mean escrowed...a quorum. Excuse  
9 me. Quorum for everybody here to come whether it is Monday,  
10 Tuesday, the third Tuesday, the Fourth Tuesday, Saturday or  
11 Sunday, because that stops our business completely in our  
12 tracks, and that's just one of the most important things I  
13 wanted to leave with you is that having that quorum, it just  
14 backs us up, our whole business, a drilling rig, when we can  
15 go drill wells and it has a major impact for the Board not  
16 meeting, on us conducting our business. Thank you.

17 MASON BRENT: I think that's why we are having this  
18 discussion.

19 BENNY WAMPLER: That's exactly why we are having it.  
20 That's why---.

21 CLYDE KING: Right.

22 BENNY WAMPLER: ---Mr. King was concerned to start  
23 with because he knew he---.

24

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1           CLYDE KING: Well, I'm not going to be here for that  
2 ninety (90) day thing you are going to come with in November.  
3           JIM KISER: That's an opportunity to maybe set  
4 it---.  
5           CLYDE KING: Yeah.  
6           JIM KISER: I mean, as long as everybody has got  
7 enough lead notice so that you can comply with your notice  
8 requirements for your applications and your publications  
9 requirements, I agree, I don't see why you can't do it.  
10          BENNY WAMPLER: Yeah, we might just go ahead and  
11 poll the members...we do that at a later date where you can  
12 look at your calendars and see in November if we can find a  
13 more...a better date for it.  
14          CLYDE KING: Any day...any day except that third  
15 Tuesday.  
16          MASON BRENT: I can tell you...as I mentioned to you  
17 earlier, I will not be here for next month's meeting.  
18          BENNY WAMPLER: Right.  
19          MASON BRENT: So, it might be a good time to poll  
20 the members to see who is going to be here---.  
21          BENNY WAMPLER: Right.  
22          MASON BRENT: And if you are not going to have a  
23 quorum, go ahead and change it now.

24

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1           CLYDE KING: Yeah, the next one---.

2           BENNY WAMPLER: Because that will be an important  
3 meeting, that one in November especially.

4           CLYDE KING: I'm not going to be able to be here  
5 next month.

6           BENNY WAMPLER: Not that they all aren't important,  
7 but that one...when we are looking at receiving a report.

8           CLYDE KING: When can you be here next month? Is  
9 that just a bad day?

10          MASON BRENT: It is bad three days.

11          CLYDE KING: Oh.

12          MASON BRENT: Monday, Tuesday, Wednesday.

13          TOM FULMER: One of the things, again, I want to  
14 mention about as far as the meeting goes. There are certain  
15 notification requirements and also it is affected whenever  
16 you change the date. For instance, we had a Court battle in  
17 regards to a thirty (30) day submittal on an application.  
18 Would that be thirty (30) days prior to the Board hearing?  
19 Things of that nature. So, when we do this, you know, we  
20 have to be on our toes, pretty much so.

21          JIM KISER: That's what I'm saying.

22          BENNY WAMPLER: Yeah, you have to do it well in  
23 advance, so that you do have the opportunity to do the full  
24

1 public notice and everything. Publications and everything is  
2 real important. But we will do that. We will poll everyone.

3 Is there anything further? Any further discussion?

4 (No audible response.)

5 BENNY WAMPLER: Thank you all very much.

6

7

8 STATE OF VIRGINIA,

9 COUNTY OF BUCHANAN, to-wit:

10 I, SONYA MICHELLE BROWN, Court Reporter and Notary  
11 Public for the State of Virginia, do hereby certify that the  
12 foregoing hearing was recorded by me on a tape recording  
13 machine and later transcribed by me personally.

14 Given under my hand and seal on this the 10th day  
15 of September, 1998.

16 NOTARY PUBLIC

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18 My commission expires August 31, 2001.

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